United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

77-7227

United States Court of Appeals

FOR THE SECOND CIRCUIT

THE MUSLIM COMMERCIAL BANK LTD.,

Plaintiff-Appellee,

v.

M. GOLODETZ & COMPANY and
WATERMAN STEAMSHIP CORP.,

Defendants.

PUBALI BANK, RUPALI BANK, SONALI BANK and
ADAMJEE JUTE MILLS, LTD.,

Plaintiffs-Appellants,

v.

M. GOLODETZ & COMPANY and
WATERMAN STEAMSHIP CORP.,

Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

LEON, WEILL & MAHONY
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New York, New York 10016
Attorneys for the Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Jute Mills, Ltd., Appellants

DEBEVOISE, PLIMPTON, LYONS & GATES
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Attorneys for The Muslim Commercial Bank, Ltd., Appellee

PAGINATION AS IN ORIGINAL COPY

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DOCKET ENTRIES NO. 72 CIV. 5309

73- 73 civil 566 consolidated with this action for all purposes.

CIVIL DOCKET

UNITED STATES DISTRICT COURT

JUDGE PIERCE (by demand date)

JUDGE [illegible] Pi

72 CIV. 5309

D. C. Form No. 106 Rev.

TITLE OF CASE	ATTORNEYS
THE MUSLIM COMMERCIAL BANK LIMITED VS. M.GOLODETZ & CO., - discharged 3/13/75 WATERMAN STEAMSHIP CORP and discharged 3/13/75 JOHN DOE CORP.	For plaintiff: ~~DeBEVOISE, PLIMPTON, LYONS & GATES~~ ~~299 Park Ave.~~ ~~NYC, NY 10017~~ ~~752-5400~~ LEON , WEIL, & MAHONY (PLTFFS) 261 MADISON AVENUE, N.Y.C. N.Y. 10016 687- 5707 For defendant: KATZ, BARRY, NICOL, & WALLACE 375 PARK AVE. NEW YORK, N.Y. 10022 758-8110 (ATTY FOR WATERMAN STEAMSHIP 593-8400 ROE & KRAMER 444 MADISON AVE NEW YORK, N.Y. 10022 PL-93520 (ATTY FOR M. GOLODETZ & CO.)

STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC.		DISB.
J.S. 5 mailed X	Clerk			12/15/72	Defendants	15		
				12/15/72	Stern			
J.S. 6 mailed	Marshal							
Basis of Action: Breach of Contract, 28 U.S.C. Sec.1332, Sec. $554,953.73	Docket fee							
	Witness fees							
Action arose at:	Depositions							

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Docket Entries No. 72 Civ. 5309

THE MUSLIM COMMERCIAL BANK LTD. VS. M.GOLODETZ & CO, WATERMAN STEAMSHIP CORP and JOHN DOE CORP.

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72 CIV. 5309

DATE	PROCEEDINGS
e.15-72	Filed Complaint. Issued Summons.
an.17-73	Filed summons with marshal's ret. Served: M.Golodetz & Co. on 12/19/72; Waterman Steamship Corp. by Miss Doucilli on 1/12/73.
an.25-73	Filed stipulation and order extending deft. M.Golodetz & Co.'s time to answer complaint to 2/9/73. So ordered. Bauman, J.
n.29-73	Filed stipulation and order extending deft. Waterman Steamship Corp.'s time to answer complaint to 2/9/73. So ordered. Bauman, J.
eb 26-73	Filed stip & order that the time for deft. M. Goldets & Co, to answer the complaint is extended 2/26/73. So Ordered Bauman J.
b 23-73	Filed deft. Waterman Steamship Corp's ANSWER to the complaint.
eb 26-73	Filed deft. M. Golddets & Co's ANSWER to the complaint.
b 2-73	Filed Deft. M. Golodets & Co.'s notice of motion, re: Consolidation. ret before Bauman J.
2-73	Filed deft M. Golodets & Co's memo of law in support of motion.
2-73	Filed Pltffs request for documents from deft Waterman Steamship
2-73	Filed Pltffs request for documents from deft. M. Golodetz, & Co.
r 7-73	Filed Pltffs reply to counterclaim set forth in the answer of M. Golodetz & Co.
r 8-73	Filed Pltffs memo with respect to the consolidation motion of deft. M. Golodetz. Co.
20-73	Filed memo endorsed on motion papers dtd. 2/28/73. Motion granted, Stip. & Order. So Ordered Bauman J. mb
23-73	Filed stip & order that the time for the deft. Waterman Steamship Corp. to answer pltffs request for Production of Documents is extended to 4/10/73. So Ordered Bauman J.
3-73	Filed Stip and Order that the time for deft M. Golodetz & Co to answer pltff the Muslim Commercial Bank Ltd.'s request for production of documents shall be extended from 4-4-73 to 4-11-73. BAUMAN, J.
1-73	Filed Notice of Settlement & Order. Ordered that the motion of deft. M. Golodetz & Co. for consolidation of the above actions is hereby granted, So Ordered Bauman J.
16-73	Filed deft. M. Golodetz & Co's answer to request to produce by the pltff.
23	Filed deft. M. Golodetz & Co's objections to Pltff's Interrogatories
23-73	Filed deft. M. Golodetz & Co's answers to pltffs Interrogatories (Pubali Bank)
23-73	Filed stip and order that the Production of documents by deft. Waterman Steamship Corp. is hereby adjourned until 4/17/73, So Ordered Bauman J.
23-73	Filed stip and order that the production of documents by deft. Waterman Steamship Corp. is hereby adjourned to 4/23/73. So Ordered Bauman J.
7-73	Filed stip. & order extending time of pltff. Muslim Commercial Bank to answer the notice to admit to 9-5-73--Bauman, J.
27-73	Filed stip. & order extending time for deft. M.Golodetz & Co. to respond to notice to admit to 9-1-73--Bauman, J.
	Filed pltff's notice to admit
11-73	Filed stip and order extending time to move against notice to admit on behalf of Pubali Bank, Dupali Bank, Sonali Bank and Adamjee Jute Mills until Oct. 1-72. BAUMAN, J.
	Filed pltfs. objections and responses to request for admissions.
27-73	Filed stip and order extending time for deft. M.Golodetz & Co. to respond to notice to admit until Nov. 12-73. BAUMAN, J.
27-73	Filed deft. Waterman Steamship, ANSWER to complaint.
31-73	Filed stip. & order extending time of deft. M.Golodetz & Co. to answer re: notice to admit to 12-12-73--Bauman, J.
7-73	Filed pltfs. notice of deposition of deft.
15-73	Filed notice of reassignment.
	(To Tauch Conference fd - referred to Mag. Goettel for all purposes)
2-73	Filed order of referral to Magistrate Goettel for discovery & pre-trial - Pierce, J.
3-73	Filed pltff's notice to admit.
	PRE-TRIAL CONFERENCE HELD BY Goettel

(CONTINUED PG 3)

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Docket Entries No. 72 Civ. 5309

The Muslin Commercial Bank Ltd. vs M. Colodetz & Co. Waterman Steamship Co.

72 Civil 5309 page 3 JUDGE PIERCE

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Judgment
12-11-74	PRE-TRIAL CONFERENCE HELD BY Goettel	
Jan. 8-75	Filed pltff's response to request for admissions.	
1-24-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
Mar 13.75	Filed Order & Stip. Ordered that defts. M.Colodetz & Co. & Waterman Steamship Corp., is discharged from any & all liability to pltffs. arising out of or relating to the subject matter of these actions;& this Court shall retain jurisdiction of this cause,etc. in & to the sum to be deposited in escrow as described in the Stip of Settlement dtd. 12/10/74,Pierce J.	
Mar 13.75	Filed Affidavit by John H. Hall depositing the disputed funds in escrow with First National City Bank on 1/29/75.	
3-18-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
3-25-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
Apr. 2-75	Filed stip & order between pltffs. in 72 civ. 5309 and 73civ.566. of statements of fact.	
7-8-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
10-14-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
11-5-75	PRE-TRIAL CONFERENCE HELD BY Goettel	
[illegible]	Filed Order that the above motion is transferred to the suspense docket of this [illegible] until the disposition of the matter entitled United Bank Ltd. Vs. Chase [illegible] 72-3287 & 72-3290 etc, as indicated. ~~(Also entered in [illegible])~~	
11-1-76	Filed memorandum of the Muslim Commercial Bank Ltd in support of motion for summary judgment.	
11-1-76	Filed Pltff's Affidavit & Notice of Motion and statement purs to Rule 9G, for an order removing this case from the suspense docket of the Court, etc, returnable before Pierce, J. on 11-12-76.	
11-15-76	Filed stip & order that the time to serve and file answering papers to the motion by the Muslim Commercial Bank Limited for summary judgment is extended to 12-2-76 Pierce, J.	
11-21-76	Filed memo endorsed on stip & order unsigned: Purs to Rule 4 C, the requested substitution of attys for the pltff in the above matter is granted. Pierce, J.	
12-10-76	Filed memorandum in opposition to motion for summary judgment by Publai Bank etc.	
12-10-76	Filed statement purs to Rule 9 (G), Publai Bank etc. as indicated.	
[illegible]	~~Filed Stip & Order that Muslim Commercial Bank Ltd. [illegible]~~	
1-[illegible]-77	Filed Stip & Order that the time to reply to Muslim Commercial Bank Ltd. ~~motion~~ motion for summary judgment is extended to 1/17/77 Pierce J.F	
1-[illegible]-77	Filed reply memo of the Muslim Commercial Bank Ltd. in support of its motion for summary judgment.	
6-6-77	Filed Order that the motion of the Muslim Commercial Bank, Limited for an order removing the above consolidated actions from the suspense calendar and granting summary judgment is hereby granted. Opinion to follow....So Ordered.....PIERCE.J. m/n	

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Docket Entries No. 72 Civ. 5309

72 civ 5309 Pierce J.

DATE	PROCEEDINGS	Date Cr. Judgment
5-11-77	Filed order and judgment # 77,615.... that order of supense of 6-30-76 is vacated (2) that pltff Muslim Commercial motion for summary judgment is granted.(3) that Muslim Commerical recover of deft Golodetz in the amt of $521,568.00 with interest held in escrow by Citibank. Pierce J. Judgment ent. 5-11-77 Clerk. m/n	
6-2-77 amended	Filed plaintiffs'(Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Jute Mills, Ltd.) notice of appeal to the U.S.C.A. for the 2nd Circuit from an order and judgment entered in this action on the 11th day of May, 1977. Mailed notice to Debevoise, Plimpton, etc., Attorneys for The Muslim Commercial Bank Ltd., 299 Park Ave., New York, N.Y. 10017.	
6-2-77	Filed letter dated March 13, 1973, from Saul I. Weinstein to Judge Bauman re: consent to proposed consolidation, subject only to the reservation contained in the Memorandum of Law submitted on behalf of Muslim Commercial Bank, Ltd.	
6-2-77	Filed letter dated March 16, 1973, from Robert J. Nicol to Judge Bauman re: adoption of motion and brief of defendant Golodetz.	

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DOCKET ENTRIES NO. 73 CIV. 566

:IS ACTION CONSOLIDATED INTO 72 civil 5309 for all purposes.

CIVIL DOCKET

UNITED STATES DISTRICT COURT

JUDGE PIERCE

Jury demand date:

C. Form No. 106 Rev.

73 CIV. 566

TITLE OF CASE	ATTORNEYS
ALI BANK, RUPALI BANK, SONALI BANK AND ADAM JEE TLLS LTD. AGAINST. ORg. 1155 GOLODETZ & COMPANY AND RMAN STEAMSHIP CORPORATION.	For plaintiff: NIERENBERG, ZEIF & WEINSTEIN 230 Park Avenue, N.Y.C. N.Y. 10017 For defendant: Roe & Kramer (forM.Golodetz & Co.) 444 Madison Ave. NY 10022 PL 9-3520

STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC.	DISB.
.S. 5 mailed X	Clerk			2/6/73	Nierenberg	NT	
				2/9/73	USoneft	—	NT
.S. 6 mailed	Marshal						
sis of Action:	Docket fee						
ACH OF CONTRACT. $554,953.73	Witness fees						
Action arose at:	Depositions						

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Docket Entries No. 73 Civ. 566

PUBALI BANK, ET-AL VS. M. GOLODETZ & CO. ET-ANO

JUDGE PIERC

73 CIV. 56

DATE	PROCEEDINGS	Date O Judgment
eb5-73	Filed Complaint. Issued Summons.	
b.14-73	Filed summons with marshal's ret. Served M.Golodetz & Co. by J.Lipske on 2/9/73. Waterman Steamship Corp. by Philip Scorzelli on 2/6/73.	
eb.28-73	Filed ANSWER of M. Golodetz & Co. to complaint.	R&K
Mar.12,73	Filed memo of pltf .Muslim Connercial Bank, Re; consolidated motion .	
r.14,73	Filed plfts first set of interrogatories.	
prl-73	Filed Notice of Settlement & Order. Ordered that the motion for deft. M. Golodetz & Co. for consolidation of the above action is granted. This action to be consolidated into 72 civil 5309 for all purposes. So Ordered Bauman J. m/n	
ly 20-73	Filed stip. & order extending time of pltff.Muslim Commercial Bank to answer, Re: notice to admit to 9-5-73--Bauman, J.	
ug.15-74	Mailed notice of reassignement	
	No further entries	
7-24-75	PRE-TRIAL CONFERENCE HELD BY Bueto	
Mar 13.75	Filed Order & Stip. Ordered that defts. M.Golodetz & Co. & Waterman Steamship Corp., is discharged from any & all liability to pltffs. arising out of or relating to the subject matter of these actions: & this court shall retain jurisdiction of this cause, etc. in & to the sum to be deposited in escrow as described in the Stip of Settlement dtd. 12/10/74. Pierce J. (Filediin 72 Civil 5309) (mailed notice)	
Mar 13.75	Filed Affidavit by John H. Hall deposition the disputed funds in escrow with First National City Bank on 1/29/75. (Filed in 72 Civil 5309)	
25-75	PRE-TRIAL CONFERENCE HELD BY Bueto	
6-77	Filed order that the motion of the Muslim Commercial Bank, Limited for an order removing the above consolidated actions from the suspense calendar and granting summary judgment is hereby granted. Opinion to follow....So Ordered....PIERCE.J. m/n Filed In 72 Civ. 5309.	

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NOTICE OF MOTION FOR SUMMARY JUDGMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	72 Civ. 5309 (LWP)
	Consolidated Cases
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiffs, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	73 Civ. 566 (LWP)

NOTICE OF MOTION FOR SUMMARY JUDGMENT PURSUANT TO FED. R. CIV. P. 56

SIR:

PLEASE TAKE NOTICE that upon the annexed statement pursuant to Rule 9(g) of the General Rules of this Court and the affidavit of John H. Hall, sworn to October 29, 1976, upon the accompanying Memorandum of Law, and upon all the papers and proceedings had herein, the undersigned, as attorneys for plaintiff in 72 Civ. 5309, The Muslim Commercial Bank Limited, will move before the Honorable Lawrence

W. Pierce at the United States Courthouse, Foley Square, New York, New York, on November 12, 1976, at 9:30 a.m., or soon thereafter as counsel can be heard, for an order:

(a) removing this case from the suspense calendar and

(b) granting summary judgment to The Muslim Commercial Bank Limited pursuant to Rule 56 of the Federal Rules of Civil Procedure on the grounds that there is no genuine issue as to any material fact and that it is entitled to judgment as a matter of law

and for such other further relief as to the court may seem just and proper.

Dated: New York, New York
October 29, 1976

DEBEVOISE, PLIMPTON, LYONS & GATES

By _____
A Member of the Firm

Attorneys for Plaintiff, The Muslim Commercial Bank Limited
299 Park Avenue
New York, New York 10017
(212) 752-6400

To:

NIERENBERG, ZEIF & WEINSTEIN
Attorneys for Plaintiffs,
Pubali Bank, Rupali Bank,
Sonali Bank and Adamjee
Jute Mills, Ltd.
230 Park Avenue
New York, New York 10017

STATEMENT PURSUANT TO RULE 9(g) IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	72 Civ. 5309 (LWP)
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiffs, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	Consolidated Cases 73 Civ. 566 (LWP)

STATEMENT PURSUANT TO RULE 9(g)

The Muslim Commercial Bank Limited ("Muslim Bank") submits this Statement pursuant to Rule 9(g) of the General Rules of this Court and submits that there does not exist any genuine issue of fact to be tried with respect to the following matters:

I. The Parties And The National Bank of Pakistan

1. Muslim Bank is a banking company existing under the laws of Pakistan. It has, since 1956, had its

head office, principal place of business, corporate domicile and registered office in Karachi, Pakistan. Stipulation, dated March 25, 1975 (the "Stipulation") ¶¶ 1(a) and (b).

2. Prior to December 16, 1971, Muslim Bank maintained a branch at Motijheel, Dacca, East Pakistan (the "Motijheel Branch"). The Motijheel Branch was opened by Muslim Bank under a license issued to it by the State Bank of Pakistan. Stipulation ¶ 1(c).

3. The Motijheel Branch was not an independent juridical entity separate from Muslim Bank, and it had no funds of its own and no independent interest in any of the assets of Muslim Bank which were, from time to time, lodged with it. This issue was actually litigated and necessarily determined in Rupali Bank v. Provident National Bank, Civ. No. 72-1653 (E.D. Pa., filed September 22, 1975), and the determination is binding upon plaintiffs in 73 Civ. 566.

4. The National Bank of Pakistan ("NBP") is a Pakistani banking company which has, at all times since its organization in 1949, had its head office and registered office in Karachi, West Pakistan. NBP maintained a number of branches and sub-branches in East Pakistan prior to December 16, 1971, among them a branch in Dacca. Stipulation ¶¶ 7(a), (b) and (f).

5. The Dacca Branch of NBP was not an independent juridical entity separate from NBP, and it had no funds of its own and had no independent interest in

the assets of NBP which were, from time to time, lodged with it. This issue was actually litigated and necessarily determined in United Bank Limited v. Cosmic International, Inc., Nos. 164-166, 170 (2d Cir., filed September 30, 1976), and the determination is binding upon plaintiffs in 73 Civ. 566.

6. NBP has assigned to Muslim Bank all its right title and interest in and to the subject matter of this litigation under a Deed of Assignment, dated October 29, 1974. Stipulation ¶ 7(l). The assignment was effected in response to a letter dated August 1, 1974, from counsel to the plaintiffs in 73 Civ. 566, Saul I. Weinstein, Esq., to New York counsel to NBP. Affidavit of John H. Hall, dated October 29, 1976, ¶ 2 and Exhibit A thereto. The assignment was amended by instrument dated October 1, 1975. Hall Affidavit ¶ 3 and Exhibit B thereto.

7. Rupali Bank and Sonali Bank are Bangladesh banking corporations created on or about March 26, 1972, as successors to the previously nationalised East Pakistan branches of Muslim Bank and NBP, respectively. Stipulation ¶ 2.

8. Adamjee Jute Mills, Ltd., plaintiff in 73 Civ. 566 ("Adamjee Bangladesh"), is the successor by nationalization to the East Pakistan operations of Adamjee Jute Mills, Ltd., a Pakistani Company organized prior to January 1, 1971 ("Adamjee Pakistan"). Stipulation ¶ 3.

Statement Pursuant to Rule 9(g)

9. Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Bangladesh are deemed to be a single claimant, and the transfer of any rights among, between or by them ~~are~~ is without effect upon the rights of Muslim Bank. Stipulation ¶ 4.

10. M. Golodetz & Company ("Golodetz"), a defendant in each of the consolidated actions, is a New York limited partnership with its principal place of business in New York City. Golodetz did not at any time relevant to this litigation have an office or bank account within Bangladesh or East Pakistan. Stipulation ¶¶ 5(a) and (b).

11. Waterman Steamship Corporation ("Waterman"), a defendant in each of the consolidated actions, is a New York corporation with its place of business in New York City. Stipulation ¶ 6.

12. By order entered March 13, 1975, Waterman and Golodetz were discharged from liability upon the deposit in escrow by Golodetz of the funds in dispute in this litigation. Order of this Court in these consolidated actions, entered March 13, 1975.

II. Export Transaction

13. By agreement dated May 18, 1971, Golodetz purchased jute bags (the "Jute") from Adamjee Pakistan for delivery to two ports in the Dominican Republic. The agreement was negotiated and executed in New York. Stipulation ¶ 8.

Statement Pursuant to Rule 9(g)

14. On or about November 10, 1971, at the port of Chalna, East Pakistan, the Jute was loaded on board the M.V. Mobilian, an American flag vessel owned or chartered by Waterman. The vessel left East Pakistan on or about November 17, 1971, and was in international waters by November 19, 1971. Stipulation ¶¶ 9 & 10.

15. Waterman issued two Bills of Lading (Nos. 501 and 502) (the "Bills of Lading") covering the Jute. These Bills of Lading stated, among other things, that the Jute was consigned "to the order of The Muslim Commercial Bank Limited, Dacca" and that the Arrival Notice was to be addressed to Consejo Estatal del Azucar, the ultimate purchaser of the Jute, which was also named as a consignee of the Jute. The Bills of Lading are expressly governed by the Carriage of Goods by Sea Act 46 U.S.C. ¶¶ 1300 to 1315. Stipulation ¶¶ 8(c) & 16 and Exhibits G and H thereto. The Bills of Lading were not, in the ordinary course, sent to New York for presentation to Golodetz, which, to obtain release of the Jute, had to provide Waterman with a letter of indemnity. Stipulation ¶ 15(b).

16. Deliveries of the Jute were made on December 17 and 21, 1971, in the Dominican Republic on Golodetz' directions but, as indicated in the preceding paragraph, without delivery to Waterman of the Bills of Lading and without payment by Golodetz of the purchase price of the Jute. Stipulation ¶¶ 11-14.

17. Adamjee Pakistan maintained accounts at Muslim Bank's Motijheel Branch and at the Dacca Branch of the NBP, and from time to time obtained loans from NBP and Muslim Bank secured by finished goods. Undated pretrial order consented to by the parties to these consolidated actions (the "Order"). Order ¶¶ 6(a), 7(c) & 7(d).

18. Loans made to Adamjee Pakistan as described in the preceding paragraph by Muslim Bank's Motijheel Branch were secured by the Jute. Order ¶ 6(a) & 7(a)(c). NBP's Dacca Branch may also have had a security interest in the Jute in connection with its loans to Adamjee Pakistan. Order ¶ 7(d).

19. On or after December 6, 1971, the Bills of Lading were "endorsed" to NBP and "delivered" to its Dacca Branch. Order ¶¶ 6(a)(ii), 6(c)(i) & 7(h).

20. In early 1972, the Bills of Lading, notes and related documents were presented to Golodetz on behalf of the Bangladeshi claimants for payment. Golodetz refused to make payment. Stipulations ¶ 17.

III. The Nationalization

21. On May 23, 1972, the Proclamation of Independence of Bangladesh was published in the Bangladesh Gazette. Stipulation ¶ 18.

22. On December 16, 1971, the Commander of

Pakistan troops in East Pakistan surrendered to Indian and Bangladesh forces in East Pakistan. Stipulation ¶ 20.

23. On December 29, 1971, the Bangladesh (Administration of Banks) Order, 1971 (the "Administration Order") was published in the Bangladesh Gazette. Under the purported authority of the Administration Order, the Government of Bangladesh assumed the control and management of Muslim Bank's former Motijheel Branch and NBP's former Dacca branch. Stipulation ¶ 21.

24. On February 28, 1972, the President's Order No. 16 of 1972, Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (the "Abandoned Property Order") was published in the Bangladesh Gazette. Stipulation ¶ 22.

25. Purported combined effect of the Administration Order and the Abandoned Property Order was to nationalize the branches of Muslim Bank and NBP in Bangladesh. Order ¶ 7(o).

26. No compensation has been paid or offered with respect to nationalization under the Administration Order or Abandoned Property Order. Stipulation ¶¶ 21 & 22.

27. The Bangladesh Banks (Nationalisation) Order, 1972 (the "Nationalisation Order") was published in the Bangladesh Gazette on March 26, 1972. It purported to vest in Rupali Bank, the former East Pakistan branches of Muslim Bank which had been nationalized pursuant to the Administra-

tion Order and the Abandoned Property Order. It also purported to transfer to Sonali Bank the former East Pakistan Branches of NBP which had been nationalized pursuant to the Administration Order and the Abandoned Property Order. Stipulation ¶¶ 2(b) & 2(c). No compensation has been paid or offered to Muslim Bank or NBP or their shareholders with respect to the transfer purportedly effected under the Nationalisation Order. Stipulation ¶ 23.

28. Section 20 Bangladesh Code of Civil Procedure does not provide a basis for the exercise of judicial jurisdiction over Golodetz as a result of its failure to pay the purchase price of the jute. This issue was actually litigated and necessarily decided in Rupali Bank v. Provident National Bank, supra ¶ 3, and United Bank Limited v. Cosmic International, Inc., supra, ¶ 5; those determinations are binding upon the plaintiffs in 73 Civ. 566.

DEBEVOISE, PLIMPTON, LYONS & GATES
Attorneys for Plaintiff, The
Muslim Commercial Bank Limited

By Robert B. von Mehren
A member of the Firm
299 Park Avenue
New York, New York 10017
(212) 752-6400

Of counsel

Robert B. von Mehren, Esq.
John H. Hall, Esq.

AFFIDAVIT OF JOHN H. HALL IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	72 Civ. 5309 (LWP)
	Consolidated Cases
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiffs, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	73 Civ. 566 (LWP)

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

AFFIDAVIT OF JOHN H. HALL

JOHN H. HALL, being duly sworn deposes and says:

1. I am an attorney admitted to practice before this Court and am associated with the firm Debevoise, Plimpton, Lyons & Gates, counsel to Muslim Commercial Bank Limited, plaintiff 72 Civ. 5309 ("Muslim Bank"). I make

this affidavit in support of Muslim Bank's motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Attached as Exhibit A hereto is a complete and correct copy of a letter dated August 1, 1974 from Saul I. Weinstein, counsel for the plaintiffs in 73 Civ. 566, to Messrs. Olwine, Connelly, Chase, O'Donnell and Weyher, counsel for the National Bank of Pakistan, and counsel which represented it in United Bank Limited v. Cosmic International, Inc. (392 F. Supp. 262 (S.D.N.Y. 1975), aff'd, Nos. 164-166, 170 (slip opinion at 5787-808) (2d Cir., filed September 30, 1976), with respect to an assignment by the National Bank of Pakistan of its rights to the subject matter of this litigation to Muslim Bank. As a result of this letter, National Bank of Pakistan assigned all of its right title and interest in and to the funds which are the subject matter of the litigation to Muslim Bank under agreement dated October 29, 1974 (the "Assignment"). The Assignment is before the court as Exhibit F to stipulation between the parties, dated March 25, 1975.

3. Annexed as Exhibit B hereto is an Amendment and Supplement to Assignment, dated October 1, 1975, between the National Bank of Pakistan and the Muslim Bank. The authenticity of this document has been conceded by plaintiffs

in 73 Civ. 566. See Pretrial Order in this action at ¶¶ 8(a) and ((b) (xxxvii).

JOHN H. HALL

Sworn to before me this
29th Day of October, 1976.

Notary Public

WILLIAM P. DEAN
NOTARY PUBLIC, State of New York
No. 60-0890170
Qualified in Westchester County
Certificate filed in New York County
Term Expires March 30, 1977

EXHIBIT A--LETTER DATED AUGUST 1, 1974 ANNEXED TO AFFIDAVIT OF JOHN H. HALL

LAW OFFICES
NIERENBERG, ZEIF & WEINSTEIN
230 PARK AVENUE
NEW YORK, N. Y. 10017

GERARD I. NIERENBERG
RICHARD A. ZEIF
SAUL I. WEINSTEIN

MICHAEL F. DENNIS
ALBERT P. BLAUSTEIN
COUNSEL

MARVIN J. RAPPAPORT
L. STERLING ALD
CHARLES F. KAUFFMAN
IRVING KISSIN
ROBERT S. LYONS
EDWARD G. SIEGEL

AREA CODE 212
OREGON 9-1455

CABLE ADDRESS
LEGALATTYS

DONALD A. NIERENBERG (1956)
S. ARTHUR GLIXON (1964)

August 1, 1974

RECEIVED
AUG 2 1974
DEBEVOISE, PLIMPTON, LYONS & GATES

Olwine, Connelly, Chase, O'Donnell & Weyher
299 Park Avenue
New York, N.Y. 10017

Re: The Muslim Commercial Bank Limited
v. M. Golodetz & Company, et al., etc.

Attention: Steven Schlesinger, Esq.

Dear Steve:

Confirming our telephone conversation of yesterday, I understand that John Hall of Debevoise, Plimpton, Lyons & Gates has been in touch with your firm in connection with the above entitled matter. As you know, the above matter involves a claim of more than $500,000 against a purchaser of jute located in the United States of America. The jute in question was bought by M. Golodetz & Company, a limited partnership in New York, and ultimately shipped to Golodetz's customer in the Dominican Republic. The manufacturer of the jute was Adamjee Jute Mills Ltd. It would appear that the Adamjee family owns a large portion of the stock of Adamjee Jute Mills Ltd. and also owns a considerable amount of the stock of The Muslim Commercial Bank Limited. Indeed, the address of the Muslim Bank is given as Adamjee Road.

In view of the fact that the law of Pakistan, prior to the liberation of the nation of Bangladesh, required all foreign transactions to be transacted through banks in order that the government may effectively control its foreign trade, Adamjee Jute Mills Ltd. had the steamship company execute the bills of lading for the jute in question in favor of the Muslim Bank. For some reason, after the bills of lading were originally executed to the order of the Muslim Bank, they were taken from that bank, which endorsed the bills of lading, and delivered to the Dacca office of National Bank of Pakistan. We have determined from our investigation, and it would appear that the attorneys for the Muslim Commercial Bank will concede, that the endorsement of the Muslim Commercial Bank contains the signature on behalf of that bank

of one Abul Kalam. Mr. Kalam was apparently the manager of the Dacca branch of the Muslim Commercial Bank prior to the liberation of Bangladesh and, since the liberation of Bangladesh, he has fled to Karachi where he is still working for the Muslim Commercial Bank. Mr. Kalam had a power of attorney from the Muslim Commercial Bank dated June 25, 1964.

Although all banks in Karachi apparently revoked the authority of their former branches in Bangladesh on or after December 16, 1971, I have heard of no claim of a revocation of authority prior to that date.

The attorney for Sonali Bank which, as you know, under Bangladesh law is the successor to the Dacca branches of National Bank of Pakistan, has delivered to me an original document, a copy of which I enclose herewith. This document which is dated December 6, 1971, 10 days prior to the surrender of the Pakistani troops in Bangladesh, purports to be a letter of transmittal of the bills of lading involved in our lawsuit. If this is so, then Muslim Commercial Bank cannot deny the regularity of its endorsement of the bills of lading, and if there are any claims to these monies by a Pakistani bank, it would appear that whatever claims there are on behalf of the Pakistani bank, belong to the National Bank of Pakistan, your client.

While I don't believe I would oppose a motion to intervene by National Bank of Pakistan if made promptly upon Mrs. Kaye's return from her vacation, I will object on the grounds of laches if there is any delay in making that application. On the other hand, there is no reason why your firm, and Mr. von Mehren and Mr. Hall on behalf of the Debevoise firm, cannot get together and have one proper Pakistani claimant to this fund either by an assignment by National Bank of Pakistan to the Muslim Commercial Bank of whatever claims it may have to these funds, or vice versa.

As you are aware, when we met with Judge Brieant, he indicated that he would be willing to take this case from Judge Bauman provided we would be ready for trial at the same time as the other two cases are to be tried, namely, October 21, 1974. In view of the fact that it would appear that the same witnesses would be necessary to testify in this trial that I would need in the two trials to be held before Judge Brieant on

Exhibit A annexed to Affidavit of John H. Hall

NIERENBERG, ZEIF & WEINSTEIN

Olwine, Connelly, Chase,
O'Donnell & Weyher -3- August 1, 1974

October 21, it would obviously involve a considerable saving of time and expense to my client if all three trials could be had simultaneously. The failure of your client to agree with Mr. von Mehren's client as to who should represent all of the Pakistani interests in this case, or the failure of your client to intervene in this litigation promptly in the event of a failure to so agree, will severely prejudice the Bangladesh interests in this litigation.

Very truly yours,

NIERENBERG, ZEIF & WEINSTEIN

By: Saul I. Weinstein

SIW:ls
Enclosure

cc: Roe & Kramer, Esqs.
444 Madison Avenue
New York, N.Y. 10022
Att: Herbert B. Kramer, Esq.

Pryor, Braun, Cashman & Sherman, Esqs.
410 Park Avenue
New York, N.Y. 10022
Att: Sanford Goldman, Esq.

✓ Debevoise, Plimpton, Lyons & Gates, Esqs.
299 Park Avenue
New York, N.Y. 10017
Att: Robert B. von Mehren, Esq.

McHugh, Heckman, Smith & Leonard, Esqs.
80 Pine Street
New York, N.Y. 10005
Att: James H. Kenny, Esq.

EXHIBIT B--AMENDMENT AND SUPPLEMENT TO ASSIGNMENT DATED OCTOBER 1, 1975 ANNEXED TO AFFIDAVIT OF JOHN H. HALL

AMENDMENT AND SUPPLEMENT TO DEED OF ASSIGNMENT.

THIS AMENDMENT AND SUPPLEMENT to a Deed of Assignment dated October 29, 1974 (the "Deed of Assignment") is being made in Karachi, Pakistan, this 1st. day of October, 1975, between the National Bank of Pakistan, a Pakistani banking company incorporated under the National Bank of Pakistan Ordinance, 1949, having its head office at the National Bank of Pakistan Building, I.I.Chundrigar Road, Karachi, Pakistan (the "Assignor") and The Muslim Commercial Bank Limited, a Pakistani banking company incorporated under the Companies Act, 1913, having its registered office at Adamjee House, I.I.Chundrigar Road, Karachi, Pakistan (the "Assignee").

WHEREAS, by the Deed of Assignment, Assignor assigned on October 29, 1974, all its right, title and interest to certain goods and the proceeds of sale thereof (as defined in the Deed of Assignment) to Assignee, and

WHEREAS, the Assignor and Assignee wish to reaffirm the Deed of Assignment and their mutual intention that the Deed of Assignment be effective and be governed by the laws of the State of New York, United States of America, the jurisdiction in which the rights and funds are being held by First National City Bank, as escrow agent, subject to the order of the United States District Court for the Southern District of New York,

Exhibit B annexed to Affidavit of John H. Hall

NOW, THEREFORE, this amendment and supplement witness as follows:

The Deed of Assignment is hereby amended and supplemented, as of the date thereof, by the addition of a third numbered paragraph reading as follows:

"3. This Deed of Assignment shall be construed and enforced in accordance with, and governed by, the laws of the State of New York, United States of America."

The Deed of Assignment is in all respects hereby confirmed.

IN WITNESS WHEREOF, the parties hereunto set their respective hands and seals the day, month and year first written above.

For ARTICLE BANK OF PAKISTAN

(Affan Ahmad)
Vice President.

For MUSLIM COMMERCIAL BANK LIMITED

(H. I. [illegible])
Sr. EXECUTIVE VICE PRESIDENT

STATEMENT PURSUANT TO RULE 9(g)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

THE MUSLIM COMMERCIAL BANK LIMITED, :

Plaintiff, :

- against - : 72 Civ. 5309 (LWP)

M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, :

Defendants. :

----------X Consolidated Cases

PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., :

Plaintiffs, :

- against - : 73 Civ. 566 (LWP)

M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, :

Defendants. :

----------X

STATEMENT PURSUANT TO RULE 9(g)

Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Jute Mills, Ltd. submit this Statement pursuant to Rule 9(g) of the General Rules of this Court and submit that there exists issues of fact to be tried with respect to the following matters:

i) Whether under the laws of Pakistan and Bangladesh, a bill of lading may constitute a document of title.

ii) Whether under the laws of Pakistan and Bangladesh,

Statement Pursuant to Rule 9(g)

the owner of a bill of lading,which is a document of title, owns the underlying chattel.

iii) Whether, under the Bangladesh Order of February 28, 1972, title to the two bills of lading in issue were vested in the Republic of Bangladesh.

LEON, WEILL & MAHONY
Attorneys for Plaintiffs,
Pubali Bank, Rupali Bank,
Sonali Bank and Adamjee Jute
Mills, Ltd.

BY: _____
A Member of the Firm
261 Madison Avenue
New York, New York 10016
(212) 687-5707

Of Counsel:

JEROME LIPPER, ESQ.

STIPULATION OF FACTS DATED MARCH 25, 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY, WATERMAN STEAMSHIP CORPORATION and JOHN DOE CORPORATION, Defendants.	72 Civ. 5309 (LWP)
	STIPULATION
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiff, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	73 Civ. 566 (LWP)

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for plaintiff in 72 Civ. 5309, Muslim Commercial Bank Limited, and the attorneys for plaintiffs in 73 Civ. 566, Pubali Bank, Rupali Bank, Sonali Bank, and Adamjee Jute Mills, Ltd., that the following statements of fact are true for the purposes of this action, subject, however, to objections as to relevancy:

I. The Parties

1(a). Muslim Commercial Bank Limited ("Muslim Bank") is a banking company existing under the laws of the

Islamic Republic of Pakistan ("Pakistan").

(b). Muslim Bank has since 1956 had its head office, principal place of business, corporate domicile and registered office in Karachi, Sind Province, Pakistan. Prior to 1956, Muslim Bank's registered office was in Dacca, East Pakistan.

(c). Prior to December 16, 1971, Muslim Bank maintained a branch at Motijheel, Dacca, East Pakistan, now known as Bangladesh (the "Motijheel Branch"). Muslim Bank opened the Motijheel Branch on June 15, 1966 under a license, dated March 17, 1966, issued by the State Bank of Pakistan on Muslim Bank's application.

(d). Prior to December 16, 1971, the Sub-Manager of the Motijheel Branch was Abul Kalam. Mr. Kalam acted under a power of attorney (a copy of which is annexed hereto as Exhibit A) issued by Muslim Bank on June 25, 1964.

2(a). Rupali Bank, Sonali Bank and Pubali Bank are banking corporations created on or about March 26, 1972 pursuant to the Bangladesh Banks (Nationalisation) Order, 1972 (the "Nationalisation Order"), a copy of which is annexed hereto as Exhibit B.

(b). Article 6 of the Nationalisation Order purports, inter alia, to transfer to and vest in Rupali Bank the "undertaking" of Muslim Bank (as defined in article 7 of the Nationalisation Order).

(c). Article 6 also purports, inter alia, to transfer to and vest in Sonali Bank and Pubali Bank the re-

spective "undertakings" of The National Bank of Pakistan ("NBP") and Eastern Mercantile Bank Limited.

(d). Rupali Bank, Sonali Bank and Pubali Bank have their registered offices in Dacca, Bangladesh.

3(a). Adamjee Jute Mills, Ltd. ("Adamjee") was organized under the laws of Pakistan prior to January 1, 1971.

(b). Its head and registered office was in Dacca, East Pakistan (Bangladesh). Its only jute processing mill was also located in East Pakistan (Bangladesh).

(c). Pursuant to the Bangladesh Industrial Enterprise Nationalisation Order (1972) dated March 25, 1972 (the "Industrial Order") the Government of Bangladesh purported to vest all of the stock ownership of various jute mills, including Adamjee Jute Mills, Ltd., in the Government of Bangladesh and to transfer the control and management of the affairs of these mills to Bangladesh Jute Mills Corporation, which had been created under the Industrial Order. A copy of the Industrial Order is annexed hereto as Exhibit C.

(d). Neither the government of Bangladesh nor any agency or department of Bangladesh has paid or offered to pay Adamjee or any of its shareholders domiciled in West Pakistan any compensation. However article 9 of the Industrial Order provides,

"The Government shall pay in respect of the

shares vested in the Government under Article 4 such compensation as may be determined by it:

"Provided that such compensation shall not exceed the paid-up value of such shares."

No rules have been made under the Industrial Order regarding the payment of compensation. Neither Adamjee nor any of its West Pakistan shareholders have applied for compensation under the Industrial Order.

4. For purposes of this action, Rupali Bank, Sonali Bank, Pubali Bank and Adamjee Jute Mills, Ltd. (plaintiffs in 73 Civ. 566) are deemed to be a single claimant and the sole Bangladesh claimant, and transfers of any rights among, between or by them are without effect upon the rights, if any, of Muslim Bank.

5(a). M. Golodetz & Company ("Golodetz"), a defendant in each of the consolidated actions, is a limited partnership organized and existing under the laws of the State of New York and does business at 666 Fifth Avenue, New York, New York.

(b). Golodetz was not a resident or domiciliary of East Pakistan or Bangladesh or a citizen or national of Bangladesh at any time relevant to this action; during such time, Golodetz did not maintain an office or bank account in East Pakistan or Bangladesh. Prior to 1973, Golodetz did not employ resident agents or representatives to act there on its behalf and did not otherwise conduct business there.

(c). In April 1973 and thereafter the following occurred. Golodetz (directly or through MGC Corporation, a wholly-owned subsidiary of Golodetz) purchased jute processed by various jute mills in Bangladesh. Golodetz's purchases were made in response to quotations (or offers) of jute traders located in the United States, the United Kingdom and Bangladesh. Among the traders was LMK International, Inc., a jute trading company located in Dacca, Bangladesh ("LMK"). The actual purchase contracts were with the traders for their own accounts, with the traders as agents for jute mills, or with the jute mills through the traders acting for Golodetz. The jute sales to Golodetz from Bangladesh were f.o.b. a Bangladesh port, payment on sight by irrevocable letter of credit or documentary draft.

(d). For six days during the month of February 1973, Abram Weinstein, manager of Golodetz's jute department, was in Bangladesh. Mr. Weinstein, who is neither an officer nor a partner of Golodetz, visited with Mr. Basht, Director of Marketing of Bangladesh Jute Mills Corporation ("BJMC"), and Mr. Haider of LMK. Mr. Weinstein entered into no agreements on behalf of Golodetz with BJMC or LMK while in Bangladesh; however, he did discuss in general terms the future exportation of jute to Golodetz and the schedule for movement of past-due shipments.

6. Waterman Steamship Corporation ("Waterman"),

a defendant in each of the consolidated actions, is a corporation organized and existing under the laws of the State of New York and maintains a place of business in the City and State of New York.

II. National Bank of Pakistan

7(a). NBP is a banking company duly organized under the laws of Pakistan under the National Bank of Pakistan Ordinance of 1949, Ordinance No. 19 (1949-Karachi), a copy of which is annexed hereto as Exhibit D.

(b). NBP's Head Office and its registered office are and have at all times since organization been in Karachi, Sind Province, Pakistan. The office Managing Director of NBP is and has at all times been at the Head Office. The Managing Director also had offices in each of NBP's three local offices which he visited from time to time.

(c). At all relevant times, NBP has maintained a New York branch at 99 Wall Street, New York, New York 10005.

(d). At all relevant times, 25% of NBP's capital stock was owned by the Government of Pakistan.

(e). As provided by the Ordinance and the By-Laws (a copy of which is annexed as Exhibit E), the names and residences of all shareholders of NBP were contained in the principal register maintained at the Head Office at Karachi, and NBP shareholders in the areas of Lahore, Dacca and Karachi also were registered in branch registers of NBP lo-

cated in those three places. During all material times, a major portion of the remaining shareholders of NBP (other than the Government) were residents of West Pakistan; approximately 10% were residents of East Pakistan.

(f). Prior to December 16, 1971, NBP maintained approximately 265 branches and sub-branches in East Pakistan, now known as Bangladesh, including a branch in Dacca, and 498 branches and sub-branches in West Pakistan. It also had one local office at each of the following locations: Dacca, Lahore and Karachi. The branches and local offices in East and West Pakistan, including that in Dacca, were authorized by the State Bank of Pakistan.

(g). NBP established, in accordance with the Ordinance and By-Laws, local boards of directors for the regions surrounding its three local offices. Not fewer than five of the seven directors which comprised these local boards were domiciliaries of regions covered by the respective local offices.

(h). The Central Board of Directors of NBP for the year ended December 31, 1970, was as follows:

Name	Position	Address
M. Anwar Qadir	President, Managing Director	Head Office, NBP Karachi, W. Pakistan
Abdul Hamid	Director	Additional Secretary to Government of Pakistan Ministry of Finance W. Pakistan

Stipulation of Facts dated March 25, 1975

Name	Position	Address
Chowdhury Muhammad Sarwar	Director	c/o Salika Cottage 15 Jugi Nagar P.O. Wari Dacca, East Pakistan
Mir Khalil-Ur-Rahman	Director	c/o Daily Jang Jang House I. I. Chundrigar Road Karachi, W. Pakistan
Abu Talib Dada	Director	c/o Dada, Ltd. Judia Bazar Ltd. Karachi, W. Pakistan
S. C. Subjally	Director	c/o New Jubilee Insurance Co. Ltd. Jubilee Insurance House I. I. Chundrigar Road Karachi, W. Pakistan
Mir Afzal Khan	Director	c/o Premier Sugar Mills & Distillery Co. Ltd. Mardan, W. Pakistan
A. S. Mahmood Chowdhury	Director	Ameerbad Lodge Comilla Road Chandpur District Comilla, E. Pakistan
Khan Amir Abdullah Khan Rokhri	Director	Minwali Central Co-operative Bank Ltd. Minwali, W. Pakistan
A.H.M. Dadabhoy	Director	c/o Star Textile Mills Ltd. Bonaly Road Karachi, W. Pakistan
Mrs. Anwara Begum	Director	184 Satmasgid Road Dhammandi Dacca, E. Pakistan
Tajammal Hussain	Secretary	Head Office, NBP Karachi, W. Pakistan

Stipulation of Facts dated March 25, 1975

(i). The Central Board of Directors of NBP for the year ended December 31, 1971, was as follows:

Name	Position	Address
A. Jamil Nishtar	Managing Director	Head Office, NBP Karachi, W. Pakistan
Abdur Raouf Shaikh	Director	Additional Secretary to Government of Pakistan Ministry of Finance, W. Pakistan
Sardar Raisani	Director	Raitani House Nawab Raisini Quetta, W. Pakistan
Khan Amir Abdullah Kan Rokhri	Director	Minwali Central Co-operative Bank Ltd. Minwali, W. Pakistan
Javid Saigol	Director	Saigol Bros. Ltd. Alfalah Building Lahore, W. Pakistan
Abu Talib Dada	Director	c/o Dada, Ltd. Judia Bazar Ltd. Karachi, W. Pakistan
S. C. Subjally	Director	c/o New Jubilee Insurance Co. Ltd. Jubilee Insurance House I. I. Chundrigar Road Karachi, W. Pakistan
Mir Khalil-Ur-Rahman	Director	c/o Daily Jang Jang House I. I. Chundrigar Road Karachi, W. Pakistan
Mrs. Anwara Begum	Director	184 Satmasgid Road Dhammandi Dacca, E. Pakistan
Abdul Mahomed Ebrahim Maji	Director	Lakshani Building M. A. Jannah Road Karachi, W. Pakistan

Name	Position	Address
Sakhawat Hosain	Director	Ehram Corp. Ltd. Tiger Mansion 69-17 Motijheel Commercial Area Dacca, E. Pakistan
Abu Sharf Masihur Rahman	Director	O. R. Nizam Road Chittagong, E. Pakistan
Saeed Akhtar	Secretary	Head Office, NBP Karachi, W. Pakistan

(j). All revenues and expenses of each branch of NBP were pooled for the purpose of determining the profit or loss of NBP. Dividends were paid to all shareholders in the principal register of shareholders on an equal basis irrespective of which local shareholder register list they were listed in. Dividends were declared by the Central Board and disbursed through the respective local area boards to the shareholders whose names appeared in the local registers. Voting was done on an area basis as provided in the Ordinance.

(k). The Dacca local office of NBP to which the endorsed bills of lading were delivered was the main branch of NBP in East Pakistan.

(l). NBP executed Deed of Assignment, dated October 29, 1974, with respect to the fund which is the subject of this litigation to plaintiff, Muslim Bank. A complete and correct copy of the Deed of Assignment is annexed hereto as Exhibit F.

III. The Transaction

8(a). By agreement dated May 18, 1971 (the "Agreement"), Golodetz purchased certain jute bags (the "Jute") from Adamjee.

(b). The Agreement was negotiated in New York between Golodetz and Adamjee's New York representative, R.E.B. Willcox & Co. ("Willcox"). The Agreement was executed in New York by Willcox, acting for Adamjee, and by Golodetz.

(c). Under the terms of the Agreement, delivery was to be f.o.b. East Pakistan for carriage to Consejo Estatal del Azucar, the ultimate purchaser of the jute at the ports of Barahona and San Pedro de Makoris in the Dominican Republic. The purchase price was to be paid by Golodetz in New York on sight against delivery of appropriate shipping documents (that is, bills of lading and related documents).

9. On or about November 10, 1971, at the port of Chalna, East Pakistan, the Jute was loaded on board the M. V. Mobilian, an American Flag Vessel, owned or chartered by Waterman which issued therefor its bills of lading Nos. 501 and 502, copies of which are annexed hereto as Exhibits G and H, respectively.

10. The M. V. Mobilian sailed from Chalna, East Pakistan, on November 17, 1971, and was outside the territorial waters of Pakistan on or about November 19, 1971.

11. On December 17, 1971, Golodetz took delivery of the Jute covered by bill of lading No. 501.

12. Golodetz did not pay the purchase price of the Jute prior to or upon taking delivery of the Jute covered by bill of lading No. 501.

13. On December 21, 1971, Golodetz took delivery of the Jute covered by bill of lading No. 502.

14. Golodetz did not pay the purchase price of the Jute prior to or upon taking delivery of the Jute covered by bill of lading No. 502.

15(a). To obtain pounds sterling with which to pay for the Jute, Golodetz, on or about May 19, 1971, purchased approximately 262,000 pounds sterling from First National City Bank in New York for delivery to Golodetz during the period between November 15 and December 15, 1971.

(b). Not having received the shipping documents covering the Jute, to obtain release of the Jute at Baharona and San Pedo de Makoris, Golodetz, on or about December 15, 1971, had delivered to Waterman in New York an undertaking indemnifying Waterman against claims for wrongful delivery of the Jute. Golodetz obtained such an undertaking in New York from First National City Bank.

(c). A sum equivalent to the agreed purchase price of the Jute has been placed in escrow by Golodetz pending determination of this action.

(d). Except as specified above, Golodetz did not segregate moneys for the payment for the Jute.

16. Under the bills of lading (Nos. 501 and 502) issued by Waterman, the Jute was consigned "to the order of the Muslim Commercial Bank Limited, Dacca". The bills of lading further stated, "Address Arrival Notice to M/S. Consejo Estatal del Azucar," which was also named as a consignee.

17. Except for the period incident to presentation to Golodetz for payment in early 1972, the bills of lading were at all times within the territory of East Pakistan/ Bangladesh. Golodetz did not make payment upon presentation of the bills of lading and related documents.

IV. Post-Shipment Events and Related Statutory and Constitutional Provisions

18. Annexed hereto as Exhibit I is a copy of what purports to be the Proclamation of Independence of Bangladesh, which (a) was published in the Bangladesh Gazette on May 23, 1972, (b) is dated as of April 10, 1971, and (c) purports to proclaim the Nation of Bangladesh to be a free and sovereign nation as of March 26, 1971.

19. During the period March 26, 1971 through December 3, 1971, there was Bengali guerrilla activity against the Pakistani army in East Pakistan. On December 3, 1971 a full-scale war commenced in East Pakistan with Bengali rebels being supported by regular Indian troops. The City of Dacca was entered by and fell to Indian and Bengali troops on December 14, 1971. Prior to December 16, 1971, Pakistan claimed to have both de facto and de jure control over East Pakistan.

20. On December 16, 1971, the Commander of Pakistan troops in East Pakistan surrendered to Indian and Bangladesh forces in East Pakistan.

21(a). On December 29, 1971, the Bangladesh (Administration of Banks) Order, 1971 (the "Administration Order") was published in the Bangladesh Gazette. A complete and correct copy of the Administration Order is annexed as Exhibit J.

(b). The Administration Order purported to grant authority to the Government of Bangladesh to assume the control and management of the operations in former East Pakistan (Bangladesh) of banks (such as Muslim Bank and NBP) with head offices in West Pakistan.

(c). After December 29, 1971, pursuant to the Administration Order, the Government of Bangladesh assumed control of the Dacca Branch and of other branches of Muslim Bank and NBP in East Pakistan (Bangladesh).

22(a). On February 28, 1972, the President's Order No. 16 of 1972, the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (the "Abandoned Property Order") was published in the Bangladesh Gazette. A complete and correct copy of the Abandoned Property Order is annexed as Exhibit K.

(b). The Abandoned Property Order does not provide for the payment of compensation to persons affected by its provisions.

23. Neither the Government of Bangladesh nor any agency or department of Bangladesh has paid or offered to pay

Muslim Bank or NBP or any of their shareholders domiciled in West Pakistan any compensation with respect to the subject matter of this litigation. However, Article 8 of the Nationalisation Order provides,

> "(1) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government by or under any law, and such compensation shall be distributed among the shareholders of the existing bank in the manner prescribed by rules made under this Order:
>
> "Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.
>
> "(2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order."

No rules have been made under the Nationalisation Order regarding the payment of compensation. Neither Muslim Bank nor NBP or any of the shareholders of either of them have applied for compensation under the Nationalisation Order.

24. On April 4, 1972, the Department of State of the United States of America afforded official recognition to Bangladesh as a sovereign nation.

25. On February 22, 1974, Pakistan recognized the Government and State of Bangladesh.

26. Article 42 of the Bangladesh Constitution provides,

> "(1) Subject to any restriction imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired,

nationalized or requisitioned, save by authority of law.

"(2) A law made under clause (1) shall provide for the acquisition, nationalization or requisition with or without compensation, and in a case where it provides for compensation, shall fix the amount or specify the principle on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court, on the ground that it does not provide for compensation or that any provision in respect of such compensation is not adequate."

27. Article 24 of the Pakistan Constitution provides, inter alia,

"(1) No person shall be deprived of his property save in accordance with law.

"(2) No property shall be compulsorily acquired or taken possession of, save for public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which the compensation is to be determined and given.

* * *

"(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article or determined in pursuance thereof, shall not be called in question in any court."

28. Section 20 of the Code of Civil Procedure in effect in Bangladesh continually since its emergence as a state, provides as follows:

"20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction --

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I. -- Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II. -- A corporation shall be deemed to carry on business at its sole or principal office in the Provinces and the Capital of the Federation or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court."

Stipulation of Facts dated March 25, 1975

Dated: New York, New York
March 25, 1975

DEBEVOISE, PLIMPTON, LYONS & GATES

By _____
A Member of the Firm
Attorneys for Plaintiff,
The Muslim Commercial Bank Limited
299 Park Avenue
New York, New York 10017

NIERENBERG, ZEIF & WEINSTEIN

By _____
A Member of the Firm
Attorneys for Plaintiffs,
Pubali Bank, Rupali Bank, Sonali
Bank and Adamjee Jute Mills, Ltd.
230 Park Avenue
New York, New York 10017

EXHIBIT VOLUME ANNEXED TO STIPULATION OF FACTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY, WATERMAN STEAMSHIP CORPORATION and JOHN DOE CORPORATION, Defendants.	72 Civ. 5309 (LWP)
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiff, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	73 Civ. 566 (LWP)

Exhibits to Stipulation, dated March 25, 1975 between Muslim Commercial Bank Limited, plaintiff in 72 Civ. 5309, and Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Jute Mills, Ltd., plaintiffs in 73 Civ. 566.

Exhibit Volume annexed to Stipulation of Facts

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EXHIBIT A--POWER OF ATTORNEY OF ABUL KALAM ISSUED BY MUSLIM BANK ON JUNE 25, 1964 ANNEXED TO STIPULATION OF FACTS

No. 285

POWER OF ATTORNEY
FAVOURING

Mr. ABUL KALAM

A 48

Exhibit A annexed to Stipulation of Facts

Ch. No 22-
Rs 20/-
17 DEC 1969

PAKISTAN
ADHESIVE

Assistant Superintendent of Stamps
Karachi, Pakistan

A Power of Attorney created the 25th June, One thousand nine hundred and Sixty four by THE MUSLIM COMMERCIAL BANK LTD.,

whose registered office is situated at Merewether Tower, McLeod Road, Karachi.

Witnesseth that the Bank DOTH HEREBY APPOINT

MR. ABUL KALAM

of

to be the true and lawful attorney of the Bank for and in the name of the Bank to do and perform in Pakistan and India all or any of the following acts or things that is to say:—

1. To manage such Branch or Branches of the Bank to which the said Attorney shall be assigned for that purpose from time to time and to do all the things necessary or expedient to be done for properly and efficiently conducting the business of the Bank at such branch or branches.

2. To engage, employ, control and dismiss Clerks, Servants and others whether engaged by the said Attorney or by the Bank or otherwise.

3. To open with Bankers such accounts as may be deemed requisite or advisable and to operate upon the same for all purposes including power to borrow whether with or without security and to draw and endorse cheques on Bankers.

To draw, accept, endorse, sign and negotiate all Bills of Exchange, Dividend Warrants and any orders for payment of money in which the Bank is or may be interested or concerned and to which its endorsement or signature may be necessary or requisite.

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Pa. 102/18
A19.10.64

A 49

Exhibit A annexed to Stipulation of Facts

4. To demand and enforce payment, delivery and transfer of and sue for, recover and receive of and from all and every person, body politic or corporate firm or company whatsoever and wheresoever all debts, moneys, securities for money and claims of all kinds and to demand and enforce delivery and receive and take possession of moneys, securities, store and warehouse goods, produce and property of all kinds whether belonging to the Bank or held by them as security or in trust or held by any person or company in trust or by way of security for them.

5. To settle and adjust all average and other losses and claims under Policies of Insurance of all kinds and all other accounts and reckonings whatsoever and to compromise and compound all debts and claims whatsoever claimable by the Bank and to submit to Arbitration all differences and disputes whatsoever.

6. To make proof or debts and claims under the bankruptcy or insolvency of any persons or firms or the liquidation or winding up of any companies or the administration of the estate of any deceased person, to represent and act for the Bank in person or by proxy in all such matters and on their behalf to vote and take part in the election of assignees, trustees or liquidators and in all other meetings and proceedings as the said Attorney may think fit and as fully and effectually to all intents and purposes as if in the case of each such bankruptcy, insolvency, liquidation or winding up or administration a special Power of Attorney was granted by the Bank to the said Attorney authorising and empowering him so to act.

7. To execute or enforce any powers of sale or other rights, powers or remedies incident to any mortgages, charges or securities or otherwise, to realize and obtain the benefit thereof in such manner as may be thought proper and to recover, take possession, let, manage and assure or dispose of any estates or interests in any property, goods or merchandise which may be vested in the Bank as Trustees or Mortgagees or held by them as securities.

8. To negotiate and issue and take part in the negotiation or issuing of any loan or loans, notes, bills or securities of the Government of Pakistan, India, Burma or Ceylon or any local Government therein or any provincial or municipal loan, notes, bills or securities or the bonds, debentures, stocks, shares, notes, securities or capital of any kind of any company and to act as Agents for the collection and distribution of any dividends, interest, drawings, repayments and other payments in relation to the same.

9. To recover and take possession of all lands, houses, buildings, and other property mortgaged or belonging to the Bank and to let and manage the same and to make sale and dispose of all lands, houses, buildings, goods, merchandise and property of every description, whether belonging to the Bank absolutely or in trust or as security and for any such purpose to exercise all such powers and authorities as the Bank might or could exercise.

Exhibit A annexed to Stipulation of Facts

10. To purchase or take on lease or other tenancy any land, houses, buildings for the purposes of offices or premises suitable for carrying on the said business or any of them and to build alter and furnish any office, house or premises.

11. To commence prosecute and defend all actions, suits or legal proceedings whether Civil or Criminal including proceedings to procure or establish the bankruptcy or insolvency of any person of firm or the liquidation or winding up of any companies to enforce by all lawful means any Judgment, Decree or Order or to discontinue and abandon any proceedings, to withdraw from all Courts of Justice all moneys payable to the Bank or deposited in Court for their account and to authorise the withdrawal of all such moneys by such persons as the said Attorney shall designate.

12. To appoint lawyers and advocates to represent the bank and to revoke any such appointment.

13. To appear for and represent the Bank in person or by proxy at any meeting of any company in which they may for the time being be interested as Shareholders, Debenture Holders, Stockholders or otherwise and to propose or second resolutions and to vote thereat on all resolutions whatever for or on their behalf.

14. To make, sign, seal, execute, deliver and endorse all such receipts, releases, deeds, conveyances, transfers, proxies, assurances and instruments whatsoever as the said Attorney shall think fit.

15. To give effectual receipts and discharges for all moneys, negotiable instruments, goods, merchandise or other property of any kind and upon the settlement and discharge of all accounts, reckonings, claims and demands whatsoever.

16. To act as the substitute or delegate of the Bank in all matters in which they are appointed by Power of Attorney to act for another or others with power of substitution.

17. To draw, collect and receive interest on securities of the Government of Pakistan, India, Burma or Ceylon or any local Government therein or on securities of any other Government or Authority having jurisdiction or on any securities guaranteed by the Governments of Pakistan, India, Burma or Ceylon or by such other Government or Authority as aforesaid or on securities the interest on which is guaranteed by the Governments of Pakistan, India, Burma or Ceylon or by such other Government or Authority as aforesaid and to give a discharge thereof.

18. To keep such registers and accounts and to make such returns and render all such particulars as according to the Regulations of any Government or Local Authority the Bank ought to keep or render or make.

Exhibit A annexed to Stipulation of Facts

19. In the name of the Bank and on their behalf to apply for and obtain from the proper Court or Courts, Office or Offices in Pakistan, India, Burma or Ceylon or elsewhere as occasion may require Letters of Administration with the Will annexed of any Testator or Testatrix who shall have appointed the Bank Executor or Trustees of his or her Will limited to to the movable and immovable property of the Testator or Testatrix there situate or recoverable or otherwise to procure himself to be constituted either as the Attorney of the Bank or otherwise the administrator of the said property or the legal representative of the Testator or Testatrix in Pakistan, India, Burma or Ceylon or elsewhere as occasion may require and for these purposes as the act and deed of the Bank to execute and deliver such bonds covenants recognizances of other obligations as may be required upon the grant of such Letters of Administration or otherwise.

20. To take all such steps, make all such payments and execute, sign and do all such acts, deeds documents and things as may be necessary for the purpose of enabling the Bank to carry on business as Bankers in all its branches or in any place or places in Pakistan, India, Burma or Ceylon and for such purpose to cause the Bank to be registered in any manner that may be necessary to procure recognition or to comply with the requirements of any laws and regulations for the time being in force as fully and effectually as the Bank could do if personally present and generally to do all such things as in the opinion of the said Attorney may be necessary or desirable for such purposes.

21. For all or any purposes hereby authorised to appear on behalf of the Bank in all Courts and before all Judges, Magistrates and other Officers and to acknowledge this Power of Attorney and all deeds conveyances and instruments whatsoever sealed or to be sealed by them or on their behalf by the said Attorney and to do or perform all or whatsoever shall be necessary for duly registering, recording and otherwise authenticating the same in due form of law.

22. Provided always that this Power of Attorney shall not extend to revoke or make void or affect any former or other Power or Powers of Attorney by the Bank at any time heretofore given or delegated by them to any person or persons whomsoever or any act or thing done or in course of being done thereunder.

23. Jointly with another attorney, to sell exchange, surrender give up, mortgage, charge, pledge, demise, lease or dispose of any shares or interests in public or other loans and all other stocks, funds, shares, securities and investments whatsoever (none excluded) and in particular (but without thereby restricting the generality in this clause contained) all papers stocks, funds and securities issued by the Government of Pakistan or of India or by any local Government in Pakistan or India or other Public Body or Local Authority whether Government of Pakistan or India Promissory Loans, Notes, War Loans, War Bonds or other Bonds, Development Loans or others and to transfer release or otherwise deal with any mortgages, charges or securities whether upon movable or immovable property to which the Bank may be entitled.

Exhibit A annexed to Stipulation of Facts

Lastly the Bank hereby ratify and confirm and agree to ratify and confirm all and whatsoever the said Attorney shall lawfully do or cause to be done by virtue hereof.

In witness whereof The Muslim Commercial Bank Limited have caused their Common Seal to be hereunto affixed the day and year first above written.

Sealed with the Common Seal of The Muslim Commercial Bank Ltd. and Signed and Delivered by two of the Directors thereof in the presence of:

Director
(ZAKARIA ADAMJI)

Director
(ABDUL GANI HAJI HABIB)

(M.A.K. Yousufi)
Dy. GENERAL MANAGER

ATTESTED.

Mohd. NASIM FAZLI.
(Alig)
Advocate & Notary Public

Mohd. NASIM FAZLI.
B.A., LL.B (Alig)
Advocate & Notary Public

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Exhibit A annexed to Stipulation of Facts

REGISTERED. 214

29th. March. 1968

For ADAMJEE JUTE MILLS

ADAMJEE SONS LTD

(*Managing Agents*)

REGISTRAR

EXHIBIT B--BANGLADESH BANKS (NATIONALISATION) ORDER, 1972
ANNEXED TO STIPULATION OF FACTS

[*Published in the Bangladesh Gazette, Extraordinary, Part IIIA, dated the 26th March, 1972*]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 286-Pub.—26th March, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 26th March, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 26 of 1972.

THE BANGLADESH BANKS (NATIONALISATION) ORDER, 1972.

WHEREAS it is expedient to provide for the taking over of the undertaking of certain banks in Bangladesh and for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Banks (Nationalisation) Order, 1972.

Price : 0·35 Paisa.

(*2*) It extends to the whole of Bangladesh.

(*3*) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,—

(*a*) "Bangladesh Bank" means the Bangladesh Bank established by the Bangladesh Bank (Temporary) Order, 1971 (A. P. O. No. 2 of 1971);

(*b*) "Board" means the Board of Directors of a new bank;

(*c*) "Chairman" means the Chairman of the Board;

(*d*) "Director" means a Director of a new bank;

(*e*) "existing bank" means a bank specified in column 1 of the Schedule;

(*f*) "Government" means the Government of the People's Republic of Bangladesh;

(*g*) "Managing Director" means the Managing Director of a new bank;

(*h*) "new bank" means a bank specified in column 2 of the Schedule;

(*i*) "prescribed" means prescribed by rules or regulations made under this Order;

(*j*) "Schedule" means the Schedule to this Order,

3. The provisions of this Order and any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. (*1*) On the commencement of this Order. there shall be constituted such new banks as are specified in column 2 of the Schedule.

(*2*) Every new bank shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire, hold and dispose of property, and to contract, and may sue and be sued in its name.

(*3*) Notwithstanding anything contained in this Order, every new bank may, until the 30th day of April, 1972, or until such time as the Government may, by notification in the official Gazette, fix, whichever is earlier, use the name and seal of the existing bank concerned.

(*4*) The head office of every new bank shall be at Dacca.

5. (*1*) The authorised capital of every new bank shall be such as is specified against each such bank in column 3 of the Schedule and the subscribed capital of the bank shall be such as is specified in column 4 thereof which shall be subscribed for by the Government in such form and manner as may be prescribed.

(*2*) The entire capital of each new bank shall stand vested in, and allotted to, the Government.

6. On the commencement of this Order, the undertaking of every existing bank shall be transferred to and shall vest in, the new bank specified against such bank in column 2 of the Schedule.

7. (*1*) The undertaking of each existing bank shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the commencement of this Order in the ownership, possession, power or control of the existing bank in relation to the undertaking within the territory of Bangladesh or in relation to the business of such undertaking outside Bangladesh, and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing bank in relation to the undertaking within the territory of Bangladesh.

(*2*) If, according to the laws of any country outside Bangladesh, the provisions of this Order by themselves are not effective to transfer or vest any asset situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset shall, on and from the commencement of this Order, stand entrusted to the chief executive officer for the time being. of the new bank concerned, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the existing bank for the purpose of effectively transferring such assets.

(*3*) The chief executive officer of the corresponding new bank shall, in exercise of the powers conferred on him by clause (*2*), take all such steps as may be required by the laws of any such country outside Bangladesh for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset of the existing bank.

(*4*) Unless otherwise expressly provided by this Order, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Order and to which the existing bank is a party or which are in favour of the existing bank shall be of as full force and effect against or in favour of the corresponding new bank, and may be enforced or acted upon as fully and effectually as if in the place of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(*5*) If any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking which has been transferred under Article 6 is pending by or against the existing bank, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the existing bank or of anything contained in this Order but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

8. (*1*) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government by or under any law, and such compensation shall be distributed among the shareholders of the existing bank in the manner prescribed by rules made under this Order:

Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.

(2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order.

9. (1) The general superintendence, direction and management of the affairs and business of a new bank shall vest in a Board of Directors which shall be entitled to exercise all such powers and do all such acts and things as the new bank is authorised to exercise and do.

(2) Until the first Board of Directors is appointed by the Government under Article 10, the general superintendence, direction and management of the affairs and business of the new bank shall vest in the Managing Director appointed under Article 11 who may exercise all powers and do all acts and things as may be exercised or done by the new bank.

10. The Board shall consist of the Managing Director, who shall be the Chairman of the Board, and six Directors to be appointed by the Government, at least three of whom shall be from amongst persons who, in the opinion of the Government, have had experience and shown capacity in the field of finance, banking, trade, commerce, industry or agriculture.

11. (1) The Managing Director shall be appointed by the Government for such period and on such terms and conditions as the Government may determine.

(2) The Managing Director shall—

(a) be a whole-time officer and the chief executive of the bank;

(b) exercise such powers, perform such functions and discharge such duties as may be entrusted by the Government or as may be prescribed or as may be assigned by the Board from time to time.

12. A Director, other than the Managing Director, shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that the authority which appointed or nominated a Director may remove him from office and appoint in his stead another person to fill the vacancy.

13. No person shall be, or shall continue to be a Director who—

(a) is or at any time has been convicted of an offence which, in the opinion of the Government, is an offence involving moral turpitude; or

(b) is a minor;

(c) is found to be a lunatic or of unsound mind;

(d) is or at any time has been adjudicated insolvent; or

(e) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman or, in the case of the Chairman, by the Government.

14. (1) If a Director becomes subject to any of the disqualifications specified in Article 13, he shall be deemed to have vacated his office as such and thereupon his office shall become vacant.

(2) A Director may resign his office by giving notice thereof in writing to the Government and on such resignation being accepted by the Government shall be deemed to have vacated his office.

(*3*) Where any vacancy occurs in the office of a Director, it shall be filled in accordance with Article 10.

15. A Director, other than the Managing Director, shall be paid such fees for attending the meetings of the Board or of any committee of the Board as may be prescribed by regulation.

16. The Board may constitute from amongst its Directors such committees as it may deem necessary to assist it in the discharge of its functions.

17. (*1*) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit and shall be convened if two or more Directors so request in writing addressed to the Chairman:

Provided further that a meeting of the Board shall be held at least once in every three months.

(*2*) To constitute a quorum at a meeting of the Board not less than three Directors shall be present.

(*3*) At a meeting of the Board each Director shall have one vote, and in the event of equality of votes the Chairman shall have a second or casting vote.

(*4*) No Director shall vote on any matter in which he is directly or indirectly interested.

(*5*) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised in writing by the Chairman shall preside at the meeting.

18. Every Director shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

19. (*1*) All acts done by the Managing Director of any new bank, acting in good faith, shall, notwithstanding any defect in his appointment or in the procedure, be valid.

(*2*) No act or proceeding of any Board shall be invalid merely on the ground of the existence of any vacancy in, or defect in, the constitution of such Board.

(*3*) All acts done by a person acting in good faith as a Director of any new bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force :

Provided that nothing in this Article shall be deemed to give validity to any act by a Director after his appointment has been shown to be invalid or to have terminated.

20. (*1*) The Managing Director and every officer or other employee of any new bank shall be indemnified by such bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as have been caused by his own wilful act or default.

(2) A Director of any new bank shall not be responsible for any loss or expense caused to such bank by the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of such bank, or by the insolvency or wrongful act of any customer or debtor, or by anything done in or in relation to the execution of the duties of his office, unless such loss, expense, insufficiency or deficiency was due to any wilful act or default on the part of such Director.

21. (1) Every new bank shall carry on and transact all kinds of banking business.

(2) Without prejudice to the generality of the foreging provision, every new bank may, in particular, carry on and transact the following kinds of business, namely:—

(*a*) advancing and lending of money, and opening of cash credits upon the security of—

(*i*) stocks, funds and securities in which a trustee is authorised to invest trust money by any law for the time being in force;

(*ii*) debentures or other securities for money issued under the authority of any law for the time being in force or under the authority of the Government;

(*iii*) goods which, or the documents of title to which, are deposited with, or assigned to, the bank as security for such advances, loans or credits;

(*iv*) debentures of companies with limited liability, subject to such directions as may be issued by the Board;

(*v*) shares of companies with limited liability, in accordance with such directions in this regard as may be issued from time to time by the Bangladesh Bank;

(*vi*) goods, including tea crops and raw or finished jute products, which are hypothecated to the bank as security for such advances, loans or credits;

(*vii*) accepted bills of exchange and promissory notes endorsed by the payees;

(*viii*) immovable property or documents of title relating thereto, subject to such directions as may be issued from time to time by the Bangladesh Bank:

Provided that any advances or loans which are guaranteed by the Government may be made without any specified security.

(*b*) selling and realisation of proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which, have been deposited with, or pledged, hypothecated, assigned or transferred to, the bank as security for such advances, loans or credits or which are held by the bank or over which the bank is entitled to any lien or charge in respect of any such advance or loan or credit or any debt or claim of the bank, and which have not been redeemed in accordance with the terms and conditions, if any, of such deposits, pledge, hypothecation, assignment or transfer;

(*c*) advancing and lending of money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon;

(*d*) issuing of letters of credit;

(*e*) buying and selling of gold and silver whether coined or uncoined;

(*f*) receiving of deposits and keeping cash accounts and accepting of jewelleries, title deeds, and other valuable goods on such terms as may be agreed on;

(*g*) managing, selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the bank in satisfaction or part satisfaction of any of its claims, and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable, which may be the bank's security for any advance or loan or may be connected with any such security;

(*h*) transacting of pecuniary agency business on commission and entering into contracts of indemnity, suretyship or guarantee with specific security or otherwise and the underwriting, participation in, and carrying out of the issue of any stocks, shares, debentures and other securities;

(*i*) administration of estates for any purpose whether as an executor, trustee or otherwise and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*i*) buying, selling, transferring and taking charge of any security or any share in any public company and also receiving the proceeds thereof, whether principal, interest or dividend;

(*ii*) remittance of such proceeds by public or private bills of exchange, payable either in Bangladesh or elsewhere;

(*j*) drawing of bills of exchange and the granting of letters of credit payable out of Bangladesh;

(*k*) buying of bills of exchange payable out of Bangladesh;

(*l*) borrowing of money for the purpose of the bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(*m*) paying, receiving, collecting and remitting money, bullion and securities under any agreement with the Bangladesh Bank as its agent on behalf of the Government, or undertaking and transacting any business which the Bangladesh Bank may from time to time entrust to it;

(*n*) establishing and discontinuing of branches and agencies;

(*o*) acquiring, maintaining and transferring of the bank's residential and business premises;

(*p*) taking over of the business, including the capital, assets and liabilities of any other bank, with the sanction of the Government;

(*q*) granting of advances or loans to any other bank for any purpose authorised by the Board;

(*r*) with the previous permission of the Bangladesh Bank:—

(*i*) investing of the funds of the bank in any bank incorporated outside Bangladesh, and

(*ii*) participation in the management and administration of any such bank in which the funds of the bank have been invested; and

(*s*) generally doing of all such matters and things as may be incidental or subsidiary or conducive to the promotion or advancement of the business of the bank, including foreign exchange business.

(*3*) Notwithstanding anything contained in clauses (*1*) and (*2*), the bank may carry on and transact such other business as the Government or the Bangladesh Bank may direct from time to time.

22. (*1*) A new bank shall not transact the following kinds of business, namely:—

(*a*) it shall not make any advance or loan or grant any facility in contravention of any law in force or any instruction of the Bangladesh Bank;

(*b*) it shall not make any unsecured advance or loan to any Director or to any concern in which a Director is interested:

Provided that no facility to any member of the staff shall be denied merely because he is also a Director.

(*2*) Notwithstanding anything contained in clause (*1*), the bank is authorised to grant advances or loans or to make *exgratia* payments, with the prior approval of the Government, to its officers and staff for the purpose of providing amenities and facilities for their betterment.

23. (*1*) Every new bank may, subject to any regulation made in this behalf, appoint or employ such persons as it considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

(*2*) Every officer or other employee of an existing bank shall become, on the commencement of this Order, an officer or other employee, as the case may be, of the new bank concerned and shall hold his office or service in that bank on the same terms and conditions and with the same rights and privileges as to provident fund, gratuity, pension and other matters as were enjoyed by them immediately before such commencement and shall continue to do so unless and until his employment in the new bank is terminated or until his remuneration or terms and conditions are duly altered by the new bank:

Provided that an officer or other employee may, within such time as may be specified by the new bank, exercise his option not to continue in the service of the new bank.

(*3*) Notwithstanding anything contained in any terms and conditions of service or in any award, settlement or agreement for the time being in force, every new bank may, with the prior approval of the Government, alter the remuneration (whether by way or reduction or otherwise) and other terms and conditions of service of any officer or other employee of the bank, and if such

alteration is not acceptable to an officer or other employee, the bank may terminate his employment by giving him compensation equivalent to three months' remuneration in case of a permanent officer or employee and one month's remuneration in case of temporary officer or employee.

Explanation.—The compensation to an officer or other employee under clause (*3*) shall be in addition to any pension, gratuity or other benefit to which the officer or employee may be entitled under the terms and conditions of his service.

(*4*) If any question arises as to whether any person was an officer or other employee of an existing bank or not immediately before commencement of this Order, the question shall be referred to the Government whose decision shall be final and binding on the parties.

(*5*) The transfer of service of any officer or other employee from an existing bank to a new bank shall not entitle any such officer or other employee to any compensation, other than the compensation mentioned in clause (*3*), and no such claim shall be entertained by any Court, tribunal or other authority.

24. (*1*) The accounts of every new bank shall be audited by not less than two auditors, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ordinance X of 1961), who shall be appointed by the Government for a term not exceeding three years on such remuneration as it may fix.

(*2*) Notwithstanding anything contained in clause (*1*), the Bangladesh Bank may appoint such auditor as it thinks fit to examine and report upon the accounts of any new bank.

(*3*) Every auditor shall be supplied with a copy of the annual balance sheet and statement of profit and loss and he shall examine it with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the bank, and shall at all reasonable times have access to the books, accounts and other documents of the bank, and may employ accountants or other persons to assist him in the investigation of such accounts, and may, in relation to such accounts, examine any Director or officer of the bank.

(*4*) The auditors shall report to the Government upon the annual balance sheet and accounts, and in their report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the bank's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(*5*) The bank shall, as soon as possible after the end of every financial year, furnish to the Government and the Bangladesh Bank a copy of the audited balance-sheet together with a copy of profit and loss account for the year and a report on the working of the bank during the year, and shall publish the same in such manner as may be prescribed.

25. After making provision for bad and doubtful debts, depreciation of assets and such other matter as may be prescribed, every new bank may, out of its net profits, establish a reserve fund and any surplus remaining thereafter shall be paid to the Government.

26. Any reference to any existing bank in any law, other than this Order, or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by Article 6, be construed as a reference to the corresponding new bank.

27. No provision of law relating to the winding up of companies including banking companies shall apply to any new bank, and the new bank shall not be wound up save by order of the Government and in such manner as it may direct.

28. The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Order.

29. (*1*) The Board of any new bank may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Order and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provision of this Order.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) the calling of the meetings of the Board or of any committee, fees for attending the meetings thereof and the conduct of business thereat;

(*b*) the delegation of powers and functions of the Board to the Managing Director, Director, officer or other employee of the bank;

(*c*) the conditions subject to which the bank may grant loans;

(*d*) the manner of determining the sufficiency of the security for the purpose of business;

(*e*) the manner and conditions subject to which the bank may borrow in foreign currency;

(*f*) the form of returns and statements required to be prepared under this Order;

(*g*) the duties and conduct of advisers, officers, other employees and agents of the bank;

(*h*) the recruitment, remuneration, promotion and other terms and conditions of service of the officers and other employees of the bank;

(*i*) the establishment and maintenance of pension, provident or other fund for the benefit of officers and other employees of the bank including the dependents of such officers and other employees;

(*j*) the provision of a seal of the bank and the manner and effect of its use;

(*k*) the disclosure of interest, direct or indirect, of any Director or any member of a committee in any business concern;

(*l*) taking over the management and control of any industrial or business concern committing a breach of its agreement with the bank;

(*m*) publication of audited balance sheet and profit and loss account;

(*n*) generally for the efficient conduct of the affairs of the bank.

(*3*) All regulations made under this Article shall be published in the official Gazette and shall come into force on such publication.

30. If any difficulty arises in giving effect to the provisions of this Order, the Government may make such Order, not inconsistent with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty.

31. All laws relating to banker and banking companies shall, subject to such adaptations and modifications as may be made from time to time, shall be applicable to the new banks.

32. (*1*) The existing banks shall stand dissolved in Bangladesh on such date as the Government may, by notification in the official Gazette, appoint.

(*2*) Notwithstanding anything contained in clause (*1*), the Board of Directors, of existing banks if any, shall, on the commencement of this Order, stand dissolved and the Chairman and other directors of such Boards shall cease to function.

THE SCHEDULE

(*See* Articles 4 and 5)

Existing bank.	New bank.	Authorised capital.	Paid up capital.
Column 1	Column 2	Column 3	Column 4
		(*in lakhs of takas*).	
The National Bank of Pakistan The Bank of Bahawalpur Ltd. The Premier Bank Ltd.	সোনালী ব্যাংক Sonali Bank	500	200
The Habib Bank Ltd. The Commerce Bank Ltd.	অগ্রণী ব্যাংক Agrani Bank	500	100
The United Bank Ltd. The Union Bank Ltd.	জনতা ব্যাংক JANATA BANK	500	150
The Muslim Commercial Bank Ltd. The Standard Bank Ltd. The Australasia Bank Ltd.	রূপালী ব্যাংক RUPALI BANK	500	100
The Eastern Mercantile Bank Ltd.	পূবালী ব্যাংক PUBALI BANK	500	100
The Eastern Banking Corporation Ltd.	উত্তরা ব্যাংক UTTARA BANK	500	100

DACCA;
The 26th March, 1972.

A. S. CHOWDHURY
President of the
People's Republic of Bangladesh.

AZIMUDDIN AHMAD
Deputy Secretary.

BGP-71/72 2763G-2M.

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EXHIBIT C--BANGLADESH INDUSTRIAL ENTERPRISE NATIONALISATION ORDER, DATED MARCH 25, 1972 ANNEXED TO STIPULATION OF FACTS

Registered No. DA-1.

The Bangladesh Gazette

Extraordinary

Published by Authority

SUNDAY, MARCH 26, 1972

PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 287-Pub.—26th March, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 26th March, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 27 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) ORDER, 1972.

WHEREAS it is expedient to provide for the nationalisation of certain industrial enterprises in Bangladesh and for the establishment of corporations for the purpose of co-ordination and supervision of the nationalised industrial enterprises and for matters connected therewith or incidental thereto ;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972,

and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. (1) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Board of Directors of a Corporation ;

(b) "Chairman" means the Chairman of a Corporation;

(c) "Corporation" means a corporation established by this Order;

(d) "Director" means a Director of a corporation;

(e) "Government" means the Government of the People's Republic of Bangladesh ;

(f) "prescribed" means prescribed by rules or regulations made under this Order ;

(g) "Scheduled industrial enterprises" means industrial enterprises enumerated in the Schedules to this Order.

3. The provisions of this Order and any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. On the commencement of this Order, all the shares in each of the scheduled industrial enterprises, which have not already vested in the Government by or under any other law for the time being in force, shall, by virtue of this Article and without further assurance, stand vested in, and allotted to, the Government free of any trust, mortgage, charge, lien, interest or other incumbrance whatsoever, and the Government shall, as from such commencement, be the sole share-holder of such industrial enterprises.

5. Notwithstanding anything contained in any memorandum or articles of association of any scheduled industrial enterprises or in any charter, agreement, contract or other instrument whatsoever,—

(a) the Government may, in respect of any scheduled industrial enterprise, take such measures and do such things as it deems necessary or expedient for the purpose of efficient running of such industrial enterprise;

(b) dissolve the Board of Directors of such industrial enterprises and appoint new Directors;

(c) terminate any managing agency agreement in respect of such industrial enterprise; and

(d) modify or amend the memorandum or articles of association or any charter, agreement, contract or instrument of such industrial enterprise.

6. Every provision in any law or in any memorandum or articles of association or any other charter or instrument of any scheduled industrial enterprise providing for any consequence to follow, or requiring any act or thing to be done, or entitling any person to do any act or thing or to take any action whatsoever, as a result of a reduction in the number of the members of such industrial enterprises below a certain number, shall be of no effect in relation to such industrial enterprise.

7. The Government may, by rules, modify in their application to any scheduled industrial enterprise any of the provisions of the Companies Act, 1913 (Act VII of 1913), or of any rules made thereunder.

8. Until the Government otherwise directs,—

(*a*) the Board of Directors of a scheduled industrial enterprise, which was in existence immediately before the commencement of this Order, shall continue to function, as a Board appointed by the Government;

(*b*) the chief executive of a scheduled industrial enterprise shall on behalf of the Government continue to exercise such powers of management in respect of the scheduled industrial enterprise as were vested in him immediately before the commencement of this Order; and

(*c*) all contracts and agreements, including managing agency agreements, and all rules, regulations and bye-laws of any scheduled industrial enterprise, which were in force immediately before the commencement of this Order, shall continue to remain in force.

9. The Governemt shall pay in respect of the shares vested in the Government under Article 4 such compensation as may be determined by it:

Provided that such compensation shall not exceed the paid-up value of such shares.

10. (*1*) On the commencement of this Order, there shall be established the following corporations:

(*a*) Bangladesh Jute Mills Corporation, which shall have and exercise all the powers of a corporation in respect of the industrial enterprises engaged in jute manufacturing enumerated in the First Schedule;

(*b*) Bangladesh Cotton Mills Corporation, which shall have and exercise all the powers of a corporation in respect of all the industrial enterprises engaged in cotton manufacturing enumerated in the Second Schedule;

(*c*) Bangladesh Sugar Mills Corporation, which shall have and exercise all the powers of a corporation in respect of all the sugar mills enterprises enumerated in the Third Schedule:

(*d*) (*i*) Bangladesh Steel Mills Corporation;

(*ii*) Bangladesh Paper and Board Corporation;

(*iii*) Bangladesh Fertiliser, Chemical and Pharmaceutical Corporation;

(*iv*) Bangladesh Engineering and Shipbuilding Corporation;

(*v*) Bangladesh Minerals, Oil and Gas Corporation;

(*vi*) Bangladesh Food and Allied Products Corporation;

(vii) Bangladesh Forest Product Corporation ;

which shall respectively have and exercise the powers of a corporation in respect of such industrial enterprises, including industrial enterprises vested in Government under the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 or owned and managed by a statutory corporation, which the Government may place under it by an order notified in the official Gazette.

(2) Each Corporation shall be a body corporate, having perpetual succession and a common seal with power, subject to the provision of this Order, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The head office of each Corporation shall be at Dacca.

11. (1) The general direction and administration of the affairs and business of a corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board shall be subject to the superintendence and control of the Government and shall be guided, in the discharge of its functions, by such general or special instruction as may, from time to time, be given to it by the Government.

12. (1) The Board shall consist of a Chairman and such number of other Directors not exceeding six as the Government may fix.

(2) The Chairman and other Directors shall be appointed by the Government for such period and on such terms and conditions as the Government may determine.

(3) The Chairman or any other Director may, at any time, resign :

Provided that his resignation shall not take effect until accepted by the Government.

(4) No act or proceeding of the Board shall be invalid merely on the ground of existence of any vacancy in, or any defect in the constitution of, the Board.

13. (1) The Chairman shall be the chief executive officer of a Corporation.

(2) The Chairman and any other Director shall exercise such powers, perform such functions and discharge such duties as may be prescribed.

14. (1) The meetings of the Board shall be held at such times and places and in such manner as may be prescribed:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit.

(2) If for any reason the Chairman is unable to be present in a meeting of the Board, a Director authorised in writing by the Chairman shall preside at the meeting.

(3) At a meeting of the Board each Director shall have one vote and in the event of equality of votes the Chairman shall have a second or casting vote.

15. (1) The Board may appoint such committee or committees as it thinks fit to assist it in the efficient discharge of its functions.

(2) The Board may delegate its power to the Chairman for the purpose of effiecient functioning of a Corporation.

(3) The Chairman may delegate his powers to the officers of a Corporation.

16. A Corporation may appoint such officers, consultants, advisers, auditors and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

17. (1) It shall be the function of a Corporation to supervise and coordinate, subject to any regulation that may be made in this behalf, the activities, business and affairs of the scheduled industrial enterprises placed under it by Article 10.

(2) Without prejudice to the generality of the foregoing provision, the Corporation shall have to exercise such powers as may be prescribed in respect of the scheduled industrial enterprises.

(3) The Corporation shall, in respect of any scheduled industrial enterprise, also exercise such of the powers of the Government as the Government may by notification in the official Gazette delegate to the Corporation.

18. (1) The authorised share capital of each Corporation shall be one crore of takas each, to be subscribed by the Government, in the manner determined by the Government, from time to time according to the requirements of the Corporation.

(2) The initial share capital shall be five lakhs of taka fully paid up and subscribed by the Government.

19. A Corporation shall by such date in each year as may be prescribed, by rules, submit to the Government for approval a statement, to be called the Annual Budget Statement, in the prescribed from for every financial year showing estimated receipts and expenditure and sums which are likely to be required from the Government during that financial year.

20. (1) A Corporation may spend such sums as it thinks fit on the basis of the Annual Budget Statement approved by the Government under Article 19.

(2) A Corporation may, with the prior approval of the Government, borrow such sums, with or without security, as may be required by it to discharge its functions under this Order.

21. (1) A Corporation shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including a profit and loss account and balance-sheet.

(2) The accounts of a Corporation shall be audited by not less than two accountants, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. X of 1961), who shall be appointed by the Government.

22. (1) A Corporation shall furnish to the Government such returns, reports and statements as the Government may from time to time require.

(2) A Corporation shall, as soon as possible after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under Article 21 together with an annual report on the conduct of its affairs for that year.

(3) The auditors shall in their report upon the annual balance-sheet and accounts state whether in their opinion the balance-sheet is a full and fair balance-sheet and contains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of affairs of a Corporation, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by a Corporation for protection of the interest of the Government and creditors or upon the sufficiency of their procedure in auditing the affairs of a Corporation and may, at any time, enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditors if in its opinion the interest of the Government so requires.

(5) The copies of the audited accounts and annual report shall be published in the official Gazette and shall be laid before the Legislature.

23. No provision of law relating to the winding up of companies shall apply to a Corporation and a Corporation shall not be wound up save by order of the Government and in such manner as it may direct.

24. The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Order.

25. (1) The Board may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Order and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order.

(2) All regulations made under this Article shall be published in the official Gazette and shall come into force on such publication.

26. The Government may, by order notified in the official Gazette, transfer to a Corporation such portions of the property, assets and liabilities, and such officers and employees of the Bangladesh Industrial Development Corporation as the Government deem fit on terms and conditions to be determined by the Government.

FIRST SCHEDULE

(Industrial enterprises placed under Bangladesh Jute Mills Corporation)

1. Adamjee Jute Mills Ltd.
2. Afil Jute Mills Ltd.
3. Ajax Jute Mills Ltd.

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Exhibit C annexed to Stipulation of Facts

4. A. K. Khan Jute Mills Ltd.
5. Aleem Jute Mills Ltd.
6. Alhaj Jute Mills Ltd.
7. Alijan Jute Mills Ltd.
8. Allied Jute Mills Ltd.
9. Amin Jute Mills Ltd.
10. Anowara Jute Mills Ltd.
11. A. R. Howlader Jute Mills Ltd.
12. Ashraf Jute Mills Ltd.
13. Bawa Jute Mills Ltd.
14. Broad Burlap Industries Ltd.
15. Carpeting Jute Mills Ltd.
16. Chandpur Jute Mills Ltd.
17. Chittagong Jute Mills Ltd.
18. Co-operative Jute Mills Ltd.
19. Crescent Jute Mills Ltd.
20. Delta Jute Mills Ltd.
21. Dacca Jute Mills Ltd.
22. Dawood Jute Mills Ltd.
23. Eastern Jute Mills Ltd.
24. Fauji Chatkal Jute Mills Ltd.
25. Gul Ahmad Jute Mills Ltd.
26. Hafez Jute Mills Ltd.
27. Hamedia Jute Mills Ltd.
28. Hussain Jute Mills Ltd.
29. Jabbar Jute Mills Ltd.
30. Janata Jute Mills Ltd.
31. Jessore Jute Mills Ltd.
32. Karim Jute Mills Ltd.
33. Kohinoor Jute Mills Ltd.
34. Latif Bawany Jute Mills Ltd.
35. Maqbular Rahman Jute Mills Ltd.
36. M. M. Jute Mills Ltd.
37. Mohsen Jute Mills Ltd.
38. Meghna Jute Mills Ltd.
39. Munawar Jute Mills Ltd.
40. National Jute Mills Ltd.
41. Nawab Abdul Malek Jute Mills Ltd.
42. Nawab H. Askari Jute Mills Ltd.
43. Nishat Jute Mills Ltd.
44. New Dacca Industries Ltd.

45. Pak. (Bangladesh) Jute Mills Ltd.
46. Pakistan (Bangladesh) Fabric Co., Ltd.
47. People's Jute Mills Ltd.
48. Pubali Jute Mills Ltd.
49. Purbachal Jute Mills Ltd.
50. R. R. Jute Mills Ltd.
51. Sarwar Jute Mills Ltd.
52. Sattar Jute Mills Ltd.
53. S. K. M. Jute Mllis Ltd.
54. Sonali Jute Mills Ltd.
55. Star Jute Mills Ltd.
56. Star Alkaid Jute Mills Ltd.
57. Sultana Jute Mills Ltd.
58. Taj Jute Backing Co., Ltd.
59. United Jule Mills Ltd.
60. Victory Jute Products Ltd.
61. W. Rahman Jute Mills Ltd.
62. Daulatpur Jute Mills Ltd.
63. Mymensingh Jute Mills Ltd.
64. Nabarun Jute Mills Ltd.
65. Platinum Jubilee Jute Mills Ltd.
66. Qaumi Jute Mills Ltd.
67. Mashriqui Jute Mills Ltd.

SECOND SCHEDULE

(Industrial enterprises placed under Bangladesh Cotton Mills Corporation)

1. Adarsha Cotton Spinning and Weaving Mills Ltd.
2. Ahmed Bawany Textile Mills Ltd.
3. Ahmed Silk Mills Ltd.
4. Al-Haj Textile Mills Ltd.
5. Amin Textile Mills Ltd.
6. Ashraf Textile Mills Ltd.
7. Asiatic Cotton Mills Ltd.
8. Bengal Textile Mills Ltd.
9. Bogra Cotton Spinning Co., Ltd.
10. Calico Cotton Mills Ltd.
11. Chand Textile Mills Ltd.
12. Chisty Textile Mills Ltd.
13. Chittagong Textile Mills Ltd.
14. Chittaranjan Cotton Mills Ltd.
15. Cotton Textile Crafts Ltd.

Exhibit C annexed to Stipulation of Facts

16. Dacca Cotton Mills Ltd.
17. Dacca Dyeing and Manufacturing Co., Ltd.
18. Dhakeswari Cotton Mills Ltd.
19. Dost Textile Mills Ltd.
20. Eagle Star Textile Mills Ltd.
21. Elahi Cotton Mills Ltd.
22. E. P. Textile Mills Ltd.
23. Fine Cotton Mills Ltd.
24. Gawsia Cotton Spinning Mills Ltd.
25. Goalundo Textile Mills Ltd.
26. Habibur Rahman Textile Mills Ltd.
27. Halima Textile Mills Ltd.
28. Ibrahim Cotton Mills Ltd.
29. Jaba Textile Mills Ltd.
30. Jalil Textile Mills Ltd.
31. Jess Blanket Manufacturing Co., Ltd.
32. Karilin Silk Mills Ltd.
33. Khulna Textile Mills Ltd.
34. Kohinoor Spinning Mills Ltd.
35. Kokil Textile Mills Ltd.
36. Kushtia Textile Mills Ltd.
37. Luxmi Narayan Cotton Mills Ltd.
38. Mainamati Textile Mills Ltd.
39. Meghna Textile Mills Ltd.
40. Metex Cotton Mills Ltd.
41. Mohini Mills Ltd.
42. Monnoo Textile Mills Ltd.
43. Moula Textile Mills Ltd.
44. Muslin Cotton Mills Ltd.
45. National Cotton Mills Ltd.
46. N. H. Textile Mills Ltd.
47. Olympia Textile Mills Ltd.
48. Orient Textile Mills Ltd.
49. Pahartali Textile Mills Ltd.
50. Paruma Textile Mills Ltd.
51. Pylon Industries Ltd.
52. Quaderia Textile Mills Ltd.
53. Quasem Cotton Mills Ltd
54. Rahman Textile Mills Ltd.
55. Raz Textile Mills Ltd.
56. R. R. Textile Mills Ltd.

57. Rupali Noor Textile Mills Ltd.
58. Rupali Nylon Ltd.
59. Satrang Textile Mills Ltd.
60. Serajganj Spinning and Cotton Mills Ltd.
61. Sharmin Textile Mills Ltd.
62. Tamizuddin Textile Mills Ltd.
63. Tangail Textile Mills Ltd.
64. Zeenat Textile Mills Ltd.

THIRD SCHEDULE

(Industrial enterprises placed under Bangladesh Sugar Mills Corporation)

1. Faridpur Sugar Mills.
2. Jaipurhat Sugar Mills Ltd.
3. Kushtia Sugar Mills Ltd.
4. Kaliachapra Sugar Mills Ltd.
5. Mobarakganj Sugar Mills Ltd.
6. National Sugar Mills Ltd.
7. North Bengal Sugar Mills Ltd.
8. Panchagarh Sugar Mills Ltd.
9. Rajshahi Sugar Mills Ltd.
10. Rangpur Sugar Mills Ltd.
11. Shyampur Sugar Mills Ltd.
12. Setabganj Sugar Mills Ltd.
13. Thakurgaon Sugar Mills Ltd.
14. Zeal Bangla Sugar Mills Ltd.
15. Deshbandhu Sugar Mills Ltd.

DACCA;
The 26th March, 1972.

A. S. CHOWDHURY
President of the People's Republic of Bangladesh.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

Exhibit C annexed to Stipulation of Facts

[*Published in the Bangladesh Gazette, Extraordinary, Part IIIA, dated the 25th April, 1972*]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 371-Pub—25th April, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 25th day of April, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 37 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

Price—0·10 Paisa

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), Article 23 shall be *re-numbered* as clause (*1*) of that Article, and after clause (*1*) as so *re-renumbered*, the following new clauses shall be *added*, namely:—

"(2) No provision of law relating to the winding up of companies shall apply to any scheduled industrial enterprise and such industrial enterprise shall not be wound up save by order of the Government and in such manner as it may direct.

(3) All proceedings for the winding up of any scheduled industrial enterprise which, immediately before the commencement of this Order, were pending in any court shall, on such commencement, abate.".

A. S. CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 25th day of April, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

BGP-71/72-3252G-2M.

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Exhibit C annexed to Stipulation of Facts

Registered No. DA-1.

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TUESDAY, MAY 23, 1972

PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 430-Pub.—23rd May, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 19th May, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 51 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SECOND AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Second Amendment) Order, 1972.

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Exhibit C annexed to Stipulation of Facts

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the First Schedule, *after* entry 67, the following new entry shall be *added*, namely:—

"68. Associated Bagging Company Ltd.

69. Gawsia Jute Mills Ltd.

70. Hafiz Textile Mills Ltd.
(Jute Broad Looms Section)

71. Noapara Jute Mills Ltd.

72. Purbapak Jute Mills Ltd.

73. Quasem Jute Mills Ltd.

74. Rajshahi Jute Mills Ltd."; and

(2) in the Third Schedule, *after* entry 15, the following new entry shall be *added*, namely:—

"16. Carew & Company (Bangladesh) Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 19th May, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

A 79

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 617 Pub.—2nd August, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 1st August, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 87 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (THIRD AMENDMENT) ORDER, 1972

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Third Amendment) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the First Schedule, *after* entry 74, the following new entries shall be *added*, namely:—

"75. Transocean Fibre Processors Ltd.

76. Amin Oldfield Ltd."; and

(2) in the Second Schedule, *after* entry 64, the following new entry shall be *added*, namely:—

"65. Valika Woollen Mills (Chittagong) Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 1st August, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

A 81

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 787-Pub.—8th September, 1972—The following Order made by the President, on the advice of the Acting Prime Minister, of the People's Republic of Bangladesh on the 7th September, 1972 is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 108 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (FOURTH AMENDMENT) ORDER, 1972

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P.O. No. 27 of 1972) for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Fourth Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

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Exhibit C annexed to Stipulation of Facts

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), in Article 10, in clause (*1*), in sub-clause (*d*), *after* item No. (*vii*), the following new item and "Semi-colon" shall be *added*, namely:—

"(*viii*) Bangladesh Tanneries Corporation;".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 7th September, 1972.

JUSTICE F.K.M.A. MUNIM
Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 944-Pub.—1st November, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 1st November, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 131 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (FIFTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Fifth Amendment) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the preamble, in the first paragraph, for the words "purpose of co-ordination and supervision of the nationalised enterprises" the words and comma "purposes of control, supervision and co-ordination of the nationalised and some other enterprises and for the establishment and development of new industrial enterprises" shall be *substituted*;

(2) in Article 5,—

(i) *for* the words and comma "or other instrument whatsover," the words and comma "the Government may, in respect of any scheduled industrial enterprise" shall be *inserted*; and

(ii) in entry (a), the words and commas "the Government may, in respect of any scheduled industrial enterprises," shall be *omitted*;

(3) in Article 10,—

(a) in clause (1), in sub-clause (b), *for* the words "Bangladesh Cotton Mills Corporation", the words "Bangladesh Textile Industries Corporation" shall be *substituted*; and

(b) in sub-clause (d), *after* the words "including industrial enterprises" the words and commas "owned, wholly or partly, by the Government or" shall be *inserted*;

(4) In Article 17,—

(a) *for* clause (1) the following shall be *substituted*, namely:—

"(1) It shall be the function of a Corporation to control, supervise and co-ordinate, subject to any regulation made in this behalf the activities, business and affairs of the scheduled industrial enterprises placed under it by clause (1) of Article 10 or, as the case may be, the industrial enterprises placed under it by an order under that clause, and to establish and develop new industrial enterprises within their respective fields.";

(b) in clause (2), *after* the words and comma "industrial enterprises," the words and commas "or, as the case may be, the industrial enterprises placed under it" shall be *inserted*; and

(c) in clause (3), *after* the words and comma "industrial enterprises," the words and commas "or, as the case may be, the industrial enterprises placed under it," shall be *substituted*; and

(5) in the Second Schedule,—

(a) *for* the words "Bangladesh Cotton Mills Corporation" the words "Bangladesh Textile Industries Corporation" shall be *substituted*; and

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Exhibit C annexed to Stipulation of Facts

(*b*) *after* entry 65, the following new entries shall be *added*, namely:—

"66. Afsar Cotton Mills Ltd.

67. Chand Textile (Spinning) Mills Ltd.

68. Zofine Fabrics Limited.

69. Mohammadi Calendering and Printing Mills Ltd.

70. Eastern Textile Mills.

71. Zaritex Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 1st November, 1972.

NASIMUDDIN AHMAD
Joint Secretary.

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 996-Pub.—27th November, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh the 26th November, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 145 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SIXTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Sixth Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

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Exhibit C annexed to Stipulation of Facts

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(*1*) in Article 4, *after* the words "scheduled industrial enterprises", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*2*) in Article 5, *for* the first paragraph the following shall be *substituted*, namely:—

"Notwithstanding anything contained in any memorandum or articles of association of any scheduled industrial enterprises or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10, or in any charter, agreement, contract or other instrument whatsoever, the Government may, in respect of any such industrial enterprise,—"

(*3*) in Article 6, *after* the words "scheduled industrial enterprise", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*4*) in Article 7, *after* the words "scheduled industrial enterprises", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*5*) in Article 8, *after* the words "scheduled industrial enterprise", wherever occurring the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*6*) Article 26 shall be re-numbered as clause (*1*) of that Article, and after clause (*1*) as so re-numbered, the following new clause shall be added, namely:—

"(2) The Government may also, by an order, to be notified in the *Official Gazette*, transfer to a Corporation such portion of the property, assets and liabilites and such officers and employees belonging to the Government as it may deem fit on terms and conditions to be determined by the Government.";

(*7*) in the Second Schedule, *after* entry 65, the following new entry shall be added, namely:—

"66. Alauddin and Taiwa Textile Mills Ltd.".

DACCA;
The 26th November, 1972.

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

NASIMUDDIN AHMAD
Joint Secretary.

Printed and Published by A. R. Siddiqui, Special Officer,
Bangladesh Government Press, Dacca.

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LIBRARY COURT, DACCA

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PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 1042-Pub.—15th December, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 15th December, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 153 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SEVENTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purpose hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Seventh Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), hereinafter referred to as the said Order, in Article 10, *after* clause (*1*), the following new clause shall be *added*, namely:—

"(*1A*) Notwithstanding anything contained in any other law, an industrial enterprise, placed under any Corporation by an order notified in the official Gazette under sub-clause (*d*) of clause (*1*) of Article 10, and all shares or other proprietory interest in such industrial enterprise shall be deemed to have always vested in the Government and no such order shall be challenged on the ground that the industrial enterprise or the shares or interest therein had not vested in the Government, or that the industrial enterprise, or any share or interest therein, was not liable to be vested in the Government.".

3. In the said Order, in Article 26,—

(*a*) in clause (*1*), the words "notified in the official Gazette" shall be *omitted*;

(*b*) in clause (*2*), the words "to be notified in the official Gazette" shall be *omitted*.

4. In the said Order, in the First Schedule, *after* entry 76, the following new entry shall be *added*, namely:—

"77. Banani Jute Mills Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 15th December, 1972.

N. AHMAD
Joint Secretary.

Printed and Published by A. R. Siddiqui, Special Officer,
Bangladesh Government Press, Dacca.

32. **Amendment of the Second Schedule, P. O. No. 23 of 1973.**—In the said Order, in the Second Schedule, in the heading,—

(a) for the word "Animals" the words "Wild animals" shall be substituted; and

(b) for the word "transport" the word "transfer" shall be substituted.

33. **Amendment of the Third Schedule, P. O. No. 23 of 1973.**—In the said Order, in the Third Schedule,—

(a) in paragraph 1, for the word "Raptiles" the word "reptiles" shall be substituted; and,

(b) in paragraph 3, for the word "rouge" the word "rogue" shall be substituted.

ACT No. XVIII OF 1974

An Act further to amend the Agricultural Income-tax Act, 1944

WHEREAS it is expedient further to amend the Agricultural Income-tax Act, 1944 (Ben. Act IV of 1944), for the purpose hereinafter appearing;

It is thereby enacted as follows :—

1. **Short title.**—This act may be called the Agricultural Income-tax (Amendment) Act, 1974.

2. **Insertion of new section 61B, Ben. Act IV of 1944.**—In the Agricultural Income-tax Act, 1944 (Ben. Act IV of 1944), after Section 61A, the following new section shall be inserted, namely :—

"61B. *Power to exempt.*—The Government may, by notification in the official Gazette, exempt any person or class of persons from payment of agricultural income-tax or super-tax on agricultural income, or both for any financial year."

ACT No. XIX OF 1974

An Act further to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972.

WHEREAS it is expedient further to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 1st day of January, 1974.

2. **Amendment of Article 10, P. O. No. 27 of 1972.**—In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P.O. No. 27 of 1972), hereinafter referred to as the said Order, in Article 10, in clause (1),—

(a) in sub-clause (a), for the words "Bangladesh Jute Mills Corporation" the words "Bangladesh Jute Industries Corporation" shall be substituted; and

(b) in sub-clause (d), in item (vi), for the words "Bangladesh Food and Allied Products Corporation" the words "Bangladesh Food and Allied Industries Corporation" shall be substituted.

3. **Amendment of the First Schedule, P. O. No. 27 of 1972.**—In the said Order, in the First Schedule,—

(a) in the sub-heading, for the words "Bangladesh Jute Mills Corporation" the words "Bangladesh Jute Industries Corporation" shall be substituted;

(b) after entry 77, the following new entry shall be added, namely:—

"78. M/s. Mills Furnishings Ltd.".

4. **Amendment of the Second Schedule, P. O. No. 27 of 1972.**—In the said Order, in the Second Schedule,—

(a) for entry 5 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"5. Amin Textiles Limited.";

(b) for entry 27 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"27. Halima Textiles Limited.";

(c) for entry 40 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"40. Metex Cotton Limited.";

(d) for entry 43 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"43. Mowla Textile Mills Limited.";

(e) for entry 49 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"49. Pahartali Textiles and Hosiery Mills.";

(f) for entry 60 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"60. Serajganj Spinning and Cotton Mills Limited.";

(g) for entry 63 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"63. Tangail Cotton Mills Limited.";

(h) the entry 66, as added by Article 2(7) of the Bangladesh Industrial Enterprises (Nationalisation) (Sixth Amendment) Order, 1972 (P. O. No. 145 of 1972), shall be re-numbered as entry 72 and shall be deemed always to have been so re-numbered; and

(i) after entry 72 re-numbered as aforesaid, the following new entry shall be added, namely:—

"73. Royal Textile Industries.".

5. **Amendment of the Third Schedule, P. O. No. 27 of 1972.**—In the said Order, in the Third Schedule, after entry 16, the following new entry shall be added, namely:—

"17. Renwick and Co. Ltd.".

6. **Repeal.**—The Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Ordinance, 1973 (Ord. No. I of 1974), is hereby repealed.

ACT No. XX OF 1974

An Act further to amend the Bangladesh Banks (Nationalisation) Order, 1972

WHEREAS it is expedient further to amend the Bangladesh Banks (Nationalisation) Order, 1972 (P. O. No. 26 of 1972), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Bangladesh Banks (Nationalisation) (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 31st day of December, 1973.

2. **Amendment of Article 9, P. O. No. 26 of 1972.**—In the Bangladesh Banks (Nationalisation) Order, 1972 (P. O. No. 26 of 1972), in Article 9, for clause (2) the following shall be substituted, and shall be deemed always to have been so substituted, namely:—

"(2) Until the first Board of Directors is appointed by the Government under Article 10, the Managing Director appointed under Article 11 shall, subject to such general or special orders as the Government may give from time to time, exercise all powers, do all acts and things as may be exercised or done by the Board.".

3. **Repeal.**—The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1973 (Ord. XXXIII of 1973), is hereby repealed.

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Exhibit C annexed to Stipulation of Facts

ACT No. XXI OF 1974

An Act to determine the terms and conditions of service of the members of the public service commissions

WHEREAS it is expedient to determine the terms and conditions of service of the members of the public service commissions;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Members of the Public Service Commissions (Terms and Conditions of Service) Act, 1974.

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "chairman" means the chairman of a commission;

(b) "commission" means a public service commission established by the Bangladesh Public Service Commissions Order, 1973 (P. O. No. 25 of 1973);

(c) "member" means a member of commission.

3. **Salary of chairmen and members.**—There shall be paid to a chairman a salary of Taka 2,000/- per mensem and to every other member a salary of Taka 1,850/- per mensem:

Provided that where a person is, at the time of his appointment as member, in the service of the Republic or of a statutory body or nationalised enterprise, he shall be paid the salary specified in this section or a salary in the scale of pay applicable to the post held by him at the time of his appointment, subject to a maximum of Taka 2,000/- per mensem, whichever is higher:

Provided further that where a person is, at the time of his appointment as chairman or member, a retired servant of the Government or of a statutory body or nationalised enterprise, he shall draw his salary *minus* his gross pension, if any:

Provided further that where a person appointed as chairman or member retires from the service of the Republic or of a statutory body or nationalised enterprise during the term of his office as chairman or member, he shall draw from the date of his retirement his salary *minus* his gross pension, if any.

Explanation.—In this section, "scale of pay" includes special pay, if any.

4. **Residence.**—(1) A chairman shall be entitled to a rent-free Government accommodation or a house allowance of Taka 650/- per mensem in lieu thereof.

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EXHIBIT D--NATIONAL BANK OF PAKISTAN ORDINANCE OF 1949, ORDINANCE NO. 19 (1949-KARACHI) ANNEXED TO STIPULATION OF FACTS

B. Hossain Dacca. Bangladesh Notary Public

The National Bank of Pakistan

ORDINANCE, 1949

Published in the Gazette of Pakistan, Extraordinary, dated the 9th November, 1949. Amended upto the 27th July, 1970

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DACCA.
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Exhibit D annexed to Stipulation of Facts

Hossain M. A. Ll. B. Dacca, Bangladesh Notary Public

THE NATIONAL BANK OF PAKISTAN ORDINANCE, 1949

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NOTARY PUBLIC
DACCA. 5.10.74

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Exhibit D annexed to Stipulation of Facts

D. Hossain M. A. Ali
Dacca, Bangladesh
Notary Public

THE NATIONAL BANK OF PAKISTAN

[1]ORDINANCE NO. XIX OF 1949

AN ORDINANCE

TO CONSTITUTE A NATIONAL BANK OF PAKISTAN

Preamble

WHEREAS an emergency has arisen which renders it necessary to extend banking facilities generally and also to provide credit for agriculture and agricultural produce;

26 Geo. 5 Ch. 2

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Ordinance may be called the National Bank of Pakistan Ordinance, 1949.

[2][(2) It extends to the whole of Pakistan.]

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

---

[1]The Ordinance has been applied—

(*i*) to Baluchistan, with effect from the 9th day of November, 1949, *see* Gazette of P., 1952, Pt. I, p. 150;

(*ii*) in the Federated Areas of Baluchistan, *see ibid.*, 1953, Part I, p. 152; and

(*iii*) extended to the Leased Areas of Baluchistan, by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950).

It has also been extended to—

(*a*) the State of Bahawalpur, subject to certain modifications, *see* the Bahawalpur (Federal Laws) (Extension) Order, 1952 (G. G. O. 11 of 1952);

(*b*) the Baluchistan States Union, *see* the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953); and

(*c*) the Khairpur State, *see* the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953).

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

[2]Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3, and 2nd Sch., for the original sub-section (2) (with effect from the 14th October, 1955).

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(*a*) "the bank" means the National Bank of Pakistan constituted by this Ordinance;
(*b*) "The Central Board" means the Central Board of Directors of the Bank;
(*c*) "Local Board" means a Local Board of Members at Karachi, Dacca or Lahore;
(*d*) "Director" means a Director for the time being of the Central Board;
(*e*) "Member" means a Member for the time being of a Local Board;
(*f*) "dividend" includes bonus;
(*g*) "goods" includes bullion, wares and merchandise;
(*h*) "general meeting" means the annual meeting of the shareholders of the Bank;
(*i*) "local meeting" means the annual meeting of the shareholders whose names are registered in a branch register;
(*j*) "meeting" includes an adjourned holding of a meeting;
(*k*) "prescribed" means prescribed by bye-laws made under this Ordinance;
[1][(*l*) "Managing Director" means the Managing Director of the Bank;]
(*m*) "special meeting" means a meeting of the shareholders of the Bank convened for transacting some particular business specified in the notice convening the meeting;
(*n*) "special local meeting" means a meeting of the shareholders whose names are registered in a branch register, convened for transacting some particular business specified in the notice convening the meeting;
(*o*) "special resolution" means a resolution passed at a special meeting; and
(*p*) "special local resolution" means a resolution passed at a special local meeting.

CHAPTER II

ESTABLISHMENT, INCORPORATION AND SHARE CAPITAL OF THE NATIONAL BANK OF PAKISTAN

Establishment and incorporation of the Bank.

3. (1) As soon as may be after the commencement of this Ordinance, there shall be constituted in accordance with the provisions of this Ordinance a bank to be called the National Bank of Pakistan to carry on the business of banking.

(2) The Bank shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

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[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 2, for the original cl. (l).

Share capital.

4. (1) Subject to the provisions of this Ordinance the authorised [capital] of the Bank shall be [2][three crores] of rupees divided into [3][thirty lakh ordinary shares of ten] rupees each.

(2) Out of the said capital there shall, from time to time, be issued such number of shares and on such terms, if any, including the terms of brokerage and underwriting, as the Central Board may decide[4][,] [5]* * *

(3) The liability of the shareholders of the Bank shall be limited to the amount not fully paid up on their shares.

(4) The shareholders of the Bank may, subject to the sanction of the Central Government,[6]*** by special resolution, increase or reduce the capital of the Bank.

CHAPTER III
SHARES

Nature of shares.

5. The shares of the Bank shall be movable property and each share shall be distinguished by its appropriate number.

Principal register of shareholders.

6. The Bank shall maintain at its Head Office established under Section 11 a register, to be called the principal register, of all shareholders of the Bank, and shall enter therein such particulars as may be prescribed.

Branch registers.

7. (1) The Bank shall cause to be maintained at the offices of its Local Boards branch registers of the shareholders qualified and entitled to be registered therein, containing such particulars as may be prescribed.

(2) Subject to the provisions of this Ordinance shares shall be transferable from one branch register to another.

Qualifications of shareholders.

8. (1) No person shall be qualified to be registered as a shareholder who by reason of anything contained in any law for the time being in force is not competent to enter into any contract.

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[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 3, for "share capital".

[2] Subs. *ibid.*, for "six crores".

[3] Subs. *ibid.*, for "one hundred", and Subs. by National Bank of Pakistan (Amdt.) Ordinance 1970 (XIV of 1970), s. 2, for the words "six hundred thousand ordinary shares of fifty".

[4] Subs. by NBP (Amdt.) Ordinance 1960 (LII of 1960), s. 3, for the colon.

[5] Proviso omitted, *ibid.*

[6] The original words "and subject to the provision of the proviso to sub-section (2)," omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 3.

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(2) A person who subsequent to his registration, is discovered to have been not qualified as aforesaid at the time of registration shall not be entitled to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of his shares under the orders of a competent court.

(3) (*a*) A shareholder shall be entitled to be registered in any area defined in sub-section (5) in which he ordinarily resides or has his principal place of business.

(*b*) A shareholder who neither resides nor has a place of business in the areas defined in sub-section (5) shall be registered in such branch register as the Central Board [1][may from time to time decide].

(*c*) No person shall be registered as a shareholder in more than one branch register.

(4) The Government of an Acceding State shall be qualified to be registered as a shareholder.

[2][(5) The area served by the branch register maintained at Karachi shall consist of the [3][Karachi,] Khairpur, Hyderabad, Quetta and Kalat Divisions; the area served by the branch register maintained at Lahore shall consist of Peshawar, Dera Ismail Khan, Rawalpindi, Lahore, Multan and Bahawalpur Divisions and the Special Areas of Chitral, Dir, Swat and Amb; and the area served by the branch register maintained at Dacca shall consist of East Pakistan.]

Central Government a shareholder.

9. Notwithstanding anything contained in section 8, the Central Government shall be a shareholder of the Bank and shall purchase at par not less than twenty-five per cent of the shares issued by the Bank from time to time.

No notice to be taken of trusts.

10. No notice of any trust, express, implied or constructive shall be entered on the principal or any branch register or be receivable by the Bank.

CHAPTER IV

MANAGEMENT

Head Office of the Bank.

11. The Head Office of the Bank shall be at Karachi.

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[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 4, for certain original words.

[2] Subs. *ibid.*, for the original sub-section (5), as amended by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960).

[3] Subs. by A. O., 1964, Art, 2 and Sch., for "Federal Territory of Karachi".

Central Board.

12. The general superintendence and direction of the affairs and business of the Bank shall be entrusted to the Central Board which may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Ordinance expressly directed or required to be done by the Bank in general meeting.

Local Boards.

13. Three Local Boards shall be established for the areas mentioned in sub-section (5) of section 8, one each at Karachi, Dacca and Lahore, and shall without prejudice to the powers conferred by section 12, have power, within the prescribed limits, generally to transact all the usual business of the Bank.

Constitution of the Central Board.

[1]**14.** (1) The Central Board shall consist of the following Directors, namely:—

(*a*) the Managing Director appointed by the Central Government under section 16;

(*b*) [2][nine] Directors elected in local or special local meetings by the shareholders in the following manner, namely:—
the shareholders registered in a branch register maintained for an area mentioned in sub-section (5) of section 8, shall elect from amongst themselves such number of Directors for that area as may be decided before election by the Central Government having regard to the proportion which the share capital subscribed by the shareholders of that area bears to the whole:

PROVIDED THAT the shareholders registered in the branch register maintained at Dacca shall elect from amongst themselves at least two Directors;

(*c*) three Directors appointed by the Central Government:

PROVIDED THAT the total number of elected and appointed Directors representing the area for which the Dacca register is maintained shall not be less than three.

(2) The President of the Central Board shall be appointed by the Central Government from amongst the Directors.

Constitution of Local Boards.

15. A Local Board shall consist of the following members, namely:—

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[1] For notification under this section, *see* Gaz. of P., 1953, Ext., p. 299.
[2] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 5, for "eight".

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(*a*) The Managing Director [1]* * * :

PROVIDED THAT in the event of the inability of [2][Managing Director] to attend the meeting of a Local Board, [3][he] may nominate an officer of the Bank to attend as an ex-officio Member;

(*b*) One Member appointed by the Central Board from amongst the Directors elected by the shareholders registered in the branch register of that area;

(*c*) two Members appointed by the Central Government from the area in which the Local Board is established;

(*d*) [4][three] Members elected in a local or special local meeting from amongst themselves by the shareholders registered in the branch register of that area.

Managing Director and Deputy Managing Directors.

16. [5][(1) The Managing Director shall be appointed by the Central Government for a period not exceeding [6][five] years and on such salary and terms and conditions of service as the Central Government may determine:

PROVIDED THAT neither the salary nor the terms and conditions of service shall be varied to his disadvantage during his tenure of office[7][:]]

[8][PROVIDED FURTHER THAT the appointment may be terminated by six months' notice in writing given by the Central Government to him or by him to the Central Government.]

[9]* * *

(3) The Managing Director [10]* * * shall on the expiry of [11][his term] of office be eligible for re-appointment:

PROVIDED THAT no person shall hold office as Managing Director [12]* * * who is a member of the Central or a Provincial Legislature.

[13][(4) The Managing Director shall be the chief executive officer of the Bank and shall, subject to any bye-laws made in this behalf, direct and control, on behalf of the Central Board, the affairs of the Bank.]

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1 The original words "or a Deputy Managing Director" omitted by the National Bank of Pakistan (Amdt) Ordinance, 1960 (LII of 1960), s. 6.

2 Subs. *ibid.*, for "either of them".

3 Subs. *ibid.*, for "the Managing Director".

4 Subs. *ibid.*, for "two".

5 Subs. by the National Bank of Pakistan Ordinance (Amdt.) Act, 1953 (XXIX of 1953), s. 2, for the original sub-section (1).

6 Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 7, for "three".

7 Subs. *ibid.*, for full-stop.

8 Second proviso added *ibid.*

9 Sub-section (2) omitted *ibid.*

10 The original words "and Deputy Managing Director" omitted *ibid.*

11 Subs. *ibid.*, for "their respective terms".

12 The original words "or Deputy Managing Director" omitted *ibid.*

13 Added by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970) s. 3.

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Qualifications and disqualifications of Directors and Members.

17. (1) No person not appointed by the Central Government to serve as a Director or Member shall be qualified to serve as a Director or Member unless he is a holder in his own right of unencumbered shares of the Bank to the nominal amount of ten thousand rupees at the least.

(2) No person shall be qualified to serve as a Director or Member—

[1]* * *

[2]**

(*b*) if he is a salaried officer of any Government [3][, whether within or without Pakistan, and is] not authorised by the Central Government to serve as a Director or Member[4][;]

[5][(*c*) if he has been convicted of an offence involving moral turpitude;

(*d*) if he was at any time in the service of the Bank and was dismissed or his services had been terminated by the Bank;

(*e*) if he is a Director of any commercial bank other than a bank sponsored or established by or under the authority of the Central Government or the State Bank of Pakistan for the development of industry or agriculture in the country, or a bank which is a society registered under the Co-operative Societies Act, 1912 or any other law for the time being in force in Pakistan relating to co-operative societies;

Act II of 1912)

(*f*) if he is in the employment of any banking company, whether on salary or on commission, or is engaged in the performance of any continuous service for remuneration for any such company;

[6]**

(*g*) if he is for the time being disqualified for membership of an elective body under the Elective Bodies (Disqualification) Order, 1959 or under any other law for the time being in force[7][;]]

esident's Order p. 13 of 1959),

[8][(*h*) if having been a Director or Member, his office as such has been vacated, or deemed to be vacated under the provisions of clause (*h*) of sub-section (3); or

(*i*) if he has vacated his office as Director or, as the case may be, Member under clause (*i*) of sub-section (3) unless a period of three years has elapsed since the date he so vacated his office.]

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[1] The original cl. (*a*) omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s.2.

[2] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 8.

[3] Subs. *ibid.*, for "in Pakistan".

[4] Subs. *ibid.*, for full-stop.

[5] New cls. (*c*) to (*g*) added, *ibid.*

[6] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 4.

[7] Subs. *ibid.*, for full-stop.

[8] New cls. (*h*) & (*i*) added, *ibid.*

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(3) The Office of a Director or Member shall be vacated—

(*a*) if the person holding it resigns his office or dies;

(*b*) if he accepts or holds any other office of profit under the Bank;

(*c*) if he is, or at any time has been, adjudicated an insolvent, or compounds with his creditors or suspends payment;

(*d*) if he is found lunatic, or becomes of unsound mind;

(*e*) if he has absented himself from three consecutive meetings of the Central or a Local Board, as the case may be, or from all such meetings for a continuous period of six months, whichever is longer, without leave of absence from the Board concerned;[1]*

(*f*) if he ceases to hold in his own right the amount of shares required to qualify him for the office[2][;][3]**

[3][(*g*) if he incurs any of the disqualifications mentioned in sub-section (2)[4](;)]

[5][(*h*) if, in relation to the Bank, he has failed to pay any advance, loan or credit limit or any instalment thereof or interest thereon, or any amount due on any guarantee, or to do or perform any act agreed or undertaken in writing to be done or performed by him, and such failure continues for a period of one month after notice in writing has been served on him by the Bank calling upon him to make the payment or to do or perform the act; or

(*i*) if he has been a Director or Member for a continuous period of six years from the date when he was first elected as such Director or Member or, as the case may be, was appointed by name and otherwise than by designation of office, as such Director or Member.]

(4) No two persons who are partners of the same mercantile firm, or who are directors of the same private company, or one of whom is the general agent of, or holds a power of procuration from the other or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors of the Central Board, or as Members of the same Local Board at the same time[6][.]

[7]* * *

[8][(5) Nothing in sub-section (1), or in clause (*b*) of sub-section (2), or in clauses (*b*) and (*i*) of sub-section (3) shall apply to the Managing Director or an officer nominated by the Managing Director under the proviso to clause (*a*) of Section 15.]

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[1] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 8.

[2] Subs. *ibid.*, for full-stop.

[3] The word "or" and cl. (*g*) added *ibid.* and the word "or" omitted by National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 4.

[4] Subs., by the National Bank of Pakistan (Admt) Ordinance, 1970 (XIV of 1970). for full-stop s. 4.

[5] New clauses (*h*) & (*i*) added, *ibid.*

[6] Subs. *ibid.*, for the colon.

[7] Proviso omitted, *ibid.*

[8] New Sub-Section added *ibid.*

Exhibit D annexed to Stipulation of Facts

Removal of Directors and Members.

18. (1) The shareholders may, by a special resolution passed by the votes of shareholders holding in the aggregate more than one half of the paid-up capital for the time being, remove any Director, other than a Director appointed by the Central Government, before the expiration of his period of office, and appoint in his stead a qualified person who shall hold office subject to sub-section (2) of section 21.

(2) The shareholders on a branch register may, by a special local resolution passed by the votes of shareholders holding in the aggregate more than one half of the paid-up capital for the time being on the branch register concerned, remove any Member, other than a Member appointed by the Central Government or the Central Board, of the Local Board concerned, before the expiration of his period of office, and appoint in his stead a qualified person who shall hold office subject to sub-section (2) of section 21.

(3) Directors and Members appointed by the Central Government and the Central Board may be removed and replaced by other Directors and Members at the discretion of the appointing authorities concerned.

19. *(First Constitution of the Central and Local Boards) Omitted by the National Bank of Pakistan (Amdt.) Ordinance.* 1960 (*LII of* 1960), *s.* 9.

Terms of office of Directors and Members.

20. (1) [1][At every general meeting] one-third of the [2][elected] Directors and Members for the time being, or if their number is not three or a multiple of three then the number nearest to one-third, shall retire from office[3] [; but the retired Directors or Members shall, subject to the provisions of Section 17, be eligible for re-election.]

(2) The Directors and Members to retire at every general [4]** meeting shall be those who have been longest in office, and as between those Directors and Members who are to retire and who have been in office for an equal length of time the Director and Member to retire shall in default of agreement amongst themselves be determined by lot, the length of time a Director or Member has been in office being subject to sub-section (2) of section 21, computed from his last election.

[5]* * *

[6][(3) The term of office of a Director or Member appointed by the Central Government, other than the Managing Director, shall be for such period

[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 10, for certain original words.

[2] Ins. by the National Bank of Pakistan Ordinance (Admt.) Act, 1953 (XXIX of 1953), s. 3.

[3] The original full-stop subs. by semi-colon, words and figures by the National Bank of Pakistan (Amdt) Ordinance, 1970 (XIV of 1970), s. 5.

[4] The original words "and local" omitted by the N.B.P. (Amdt.) Ord. 1960 (LII of 1960)s. 10.

[5] Sub-Section 2A ins. *ibid.*, and Omitted by the N.B.P. (Amdt.) Ord. 1970 (XIV of 1970), s. 5.

[6] For notification under this sub-section, see Gaz., of P., 1953, Ext. p. 299 and Sub-Sec(3) subs., by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 5.

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not exceeding three years as the Central Government may fix at the time of his appointment and, notwithstanding the expiry of his term but subject to the provisions of Section 17, such Director or Member shall continue to hold office until his successor has been appointed and shall be eligible for re-appointment.]

[1][(4) A Member appointed by the Central Board shall cease to hold office when he ceases to be a Director.]

Vacancies.

21. (1) Any vacancy occurring on the Central or a Local Board by the death, resignation[2][, removal] or disqualification of any Director or Member shall be filled by the remaining Directors or Members, as the case may be, who shall co-opt a duly qualified person to fill the vacancy:

PROVIDED THAT where a vacancy occurs in the office of a Director or Member appointed by the Central Government or the Central Board, the vacancy shall be filled only by appointment by the Central Government or the Central Board, as the case may be.

(2) Any Director or Member so[3]** appointed shall be deemed to have held office from the date on which the Director or Member in whose place he is[3]**appointed was[4]** appointed, or, when such Director or Member was [3]**appointed under this sub-section, from the date on which his mediate or immediate predecessor was[3]** appointed, as the case may be.

[5] [(3) Any Director or Member co-opted under sub-section (1) shall retire at the next general or local meeting, as the case may be, and the vacancy so occurring on the Central or a Local Board shall be filled by election as provided in clause (*b*) of sub-section (1) of section 14 or clause (*d*) of section 15, as the case may be.]

General and Special Meetings.

22. (1) In the first week of March in every year, or as soon thereafter as is convenient, a general meeting shall be held annually in rotation at the towns where the Local Boards are established, at such time as may be determined by the Central Board and at the meeting the [6][shareholders present shall be entitled to discuss the annual account, the report of the Central Board on the working of the Bank throughout the year, and the auditors' report on the annual balance sheet and accounts, made up to the preceding thirty-first day of December]:

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1. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 10, for the original sub-section (4) and again subs. by the National Bank of Pakistan (Amdt.) Ordinance 1970 (XIV of 1970), s. 5.

2 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s.11.

3 The original words "co-opted or" omitted *ibid.*

4 The original words "elected or" omitted *ibid.*

5 Sub-section (3) added, *ibid.*

6 Subs. *ibid.*, s. 12, for certain original words.

PROVIDED THAT the first general meeting shall be held at Karachi.

(2) Special meetings shall be convened and held in such manner and at such time and place as may be prescribed.

Local and Special Local Meetings.

23. Local and special local meetings shall be convened and held in such manner and at such time and place as may be prescribed.

Votes of shareholders.

24. (1) Every shareholder shall be entitled to attend any meeting and each shareholder who has been registered as such for a period of not less than three months prior to the date of such meeting shall when present in person and on a show of hands, have one vote; and on a poll each shareholder so registered for a like period shall have one vote for every ten shares[1][, subject to a maximum of [2][ten] votes]:

PROVIDED THAT no shareholder shall be entitled to vote at any meeting unless all calls or other sums presently payable by him in respect of shares of the Bank have been paid.

[3][(2) On a poll votes may be given either personally or by proxy, but the Central Government as a shareholder may appoint any person to be present at any General Meeting and to vote on its behalf.]

CHAPTER V

BUSINESS OF THE BANK

Business which the Bank is authorised to transact.

25. The Bank is authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

(1) The advancing and lending of money, and opening of cash credits upon the security of—

(*a*) stocks, funds and securities [4]*** in which a trustee is authorised to invest trust money by any law for the time being in force in Pakistan and shares of the State Bank of Pakistan;

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1 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 13.

2 Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s.6, for the word "fifty".

3 Sub-Section (2), Subs. *ibid*.

4 The original brackets and words "(other than immovable property)" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14.

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(*b*) debentures or other securities for money issued under the authority of any law for the time being in force in Pakistan by, or on behalf of, a port trust authority or a district board or a municipal board or committee or, with the sanction of the Central Government, debentures or other securities for money issued under the authority of the Government of an Acceding State;

(*c*) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits;

(*d*) subject to such directions as may be issued by the Central Board, debentures of companies with limited liability;

(*e*) shares of companies with limited liability, in accordance with such directions in this regard as may be issued from time to time by the State Bank of Pakistan;

(*f*) goods which are hypothecated to the Bank as security for such advances, loans or credits[1]* * *;

(*g*) accepted bills of exchange and promissory notes endorsed by the payees and joint and several promissory notes of two or more persons or firms unconnected with each other in general partnership;[2]*

[3][(*h*) immovable property or documents of title relating thereto, subject to such directions as may be issued by the Central Board;]

[4][(*i*) subject to such directions as may be issued by the Central Board, tea crops:]

PROVIDED THAT any advances or loans which are guaranteed by the Central Government or any Provincial Government in Pakistan may be made without any specific security;

(2) the selling and realisation of proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which, have been deposited with, or pledged, hypothecated, assigned or transferred to, the Bank as security for such advances, loans or credits or which are held by the Bank or over which the Bank is entitled to any lien or charge in respect of any such advance or loan or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit, pledge, hypothecation, assignment or transfer;

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1 The original comma and words, ",if so authorised by special directions of the Central Board" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s.14.

2 The original word "and" omitted *ibid.*

3 Subs. *ibid.*, for the original sub-clause(h).

4 New sub-clause (i) added, *ibid.*

(3) the advancing and lending of money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon:

PROVIDED THAT no such advance or loan shall be made without the previous sanction of the Provincial Government concerned;

(4) the drawing, accepting, discounting, buying and selling of bills of exchange and other negotiable securities;

[1][(5) the investing of the funds of the Bank in, or the under-writing of, any stocks, funds, shares, securities, debentures, bonds or scripts or other securities for money issued by any public limited company or any corporation established by or under any law for the time being in force or under the authority of the Central Government or the State Bank of Pakistan, and converting the same into money when required, and altering, converting and transposing any such investment for or into any other of such investments;]

(6) the issuing of letters of credit;

(7) the buying and selling of gold and silver whether coined or uncoined;

(8) the receiving of deposits and keeping cash accounts on such terms as may be agreed on;

(9) the acceptance of the charge of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed on;

(10) the [2][managing,] selling and realising of all property whether movable or immovable which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims, and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property movable or immovable which may be the Bank's security for any advance or loan or may be connected with any such security [3][:]

[4][PROVIDED THAT the Bank shall not take over the management of any such property except in pursuance of an agreement with the debtor or of an order, judgement or decree of a Court of competent jurisdiction;]

(11) the transacting of pecuniary agency business on commission and the entering into of contracts of indemnity, suretyship or guarantee with specific security or otherwise [5][, and the underwriting, participating in, and carrying out of the issue of any stock, shares, debentures and other securities];

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1 Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 7.

2 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14.

3 Subs. *ibid.*, for semi-colon.

4 Proviso added *ibid.*

5 Added by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s. 3.

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(12) the administration of estates for any purpose whether as an executor, trustee or otherwise and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*a*) the buying, selling, transferring and taking charge of any securities or any shares in any public company;

(*b*) the receiving of the proceeds whether principal, interest or dividends, of any securities or shares;

(*c*) the remittance of such proceeds by public or private bills of exchange, payable either in Pakistan or elsewhere;

(13) the drawing of bills of exchange and the granting of letters of credit payable out of Pakistan;

(14) the buying of bills of exchange payble out of Pakistan;

(15) the borrowing of money for the purpose of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(16) the paying, receiving, collecting and remitting money, bullion and securities under any agreement with the State Bank of Pakistan as its agent on behalf of any Government in Pakistan, or undertaking and transacting any business which the State Bank of Pakistan may from time to time entrust to it;

(17) the establishing and discontinuing of branches and agencies;

(18) the acquiring, maintaining and transferring of the Bank's residential and business premises;

(19) the taking over of the business, including the capital, assets and liabilities of any other Bank, with the sanction of the Central Government;

(20) the granting of advances or loans to any other bank for the purpose of averting or facilitating its winding up; [1]* * *

[2]* * *

[3][(21) with the previous permission in writing of the State Bank of Pakistan,—

(*a*) the investing of the funds of the Bank in any bank incorporated outside Pakistan, and

(*b*) participating in the management and administration of any such bank in which the funds of the Bank have been invested; and]

(22) generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business including foreign exchange business hereinbefore specified.

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[1] The word "and" added by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14, and omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1963 (V of 1963), s. 2.

[2] The original cl. (21) omitted by the N.B.P. (Amdt.) Ord. 1960 (LII of 1960), s. 14.

[3] New cl. (21) ins. by the N.B.P. (Admt.) Ord. 1963 (V of 1963), s.2.

Business which the Bank is not authorised to transact.

26. The Bank shall not transact any kind of banking business other than those specified in section 25, and in particular—

[1][(1) the bank shall not make any advance or loan upon the security of its shares;]

(2) the Bank shall not discount or buy or advance or lend to any individual or partnership firm an amount exceeding in the whole at ~~any one~~ time such sum as may be prescribed;

(3) the Bank shall not discount or buy or advance or lend or open cash-credits on the security of any negotiable instrument of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership:

PROVIDED THAT nothing in this section shall be deemed to prevent the Bank from [2][granting overdrafts and loans.] without security, to such extent as may be prescribed;

[3][(4) the Bank shall not grant to any person who has been elected or appointed as a Director or Member and for so long as he continues to hold that office any advance, loan, credit limit, guarantee or other facilities, or alter to his advantage the terms and conditions of any advance, loan, credit limit, guarantee or other facilities granted before his election or appointment as a Director or Member:

PROVIDED THAT nothing in this clause shall prevent the Bank from continuing or renewing any such advance, loan, credit limit, guarantee or other facilities as may have already been granted to such person before his election or appointment as a Director or Member.]

Exceptions.

[4][**26-A** Notwithstanding anything contained in sections 25 and 26 the Bank is authorised to—

(1) grant advances or loans to its officers and staff for the purpose of building residential houses, including the cost of land, on such security, including immovable property, and on such terms and conditions and for such periods as may be prescribed;

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1. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 8.

2. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960(LII of 1960), s.15, for "allowing any person who keeps an account with the Bank to overdraw such account".

3. Added by the National Bank of Pakistan (Amdt) Ordinance, 1970 (XIV of 1970), s. 8.

4. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 16 for section 26A which was ins. by the NBP Ordinance (Amdt.) Act., 1953 (XXIX of 1953), S. 4.

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[1][(1a) grant advances or loans, for any period exceeding one year but not exceeding five years, to such small and medium industries as may, from time to time, be specified by the Central Board on such terms and conditions as may be prescribed:

PROVIDED THAT the amount of advances and loans outstanding at any time under this clause shall not exceed five per cent of the total amount of bank deposits at such time;]

(2) grant or subsidise, from time to time, pensions, gratuities, bonuses or other funds created for the benefit of its officers and staff or their dependents;

(3) contribute to the promotion of research in banking and allied subjects; and

(4) donate funds for any charitable objects or to any charitable institutions or societies.]

CHAPTER VI

MISCELLANEOUS

Auditors.

27. (1) Not more than two auditors who shall be Registered Accountants shall be elected and their remuneration fixed at the general meeting. The auditors may be shareholders, but no Director or Member or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible on quitting office for re-election.

(2) The first auditors of the Bank may be appointed and their remuneration fixed by the Central Board before the general meeting and if so appointed shall hold office only until the first general meeting. All auditors elected under this section shall severally be and continue to act as auditors until the first general meeting after their respective elections:

PROVIDED THAT if any casual vacancy occurs in the office of any auditor elected under this section, the vacancy may be filled by the Central Board.

Government Auditors.

28. Without prejudice to anything contained in the foregoing provisions, the Central Government may appoint such auditors as it thinks fit to examine and report upon the accounts of the Bank.

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[1]. New cl. (1a) ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s.4.

Rights and Duties of Auditors.

29. (1) Every auditor shall be supplied with a copy of the annual balance-sheet and statement of profit and loss and it shall be his duty to examine the same, with the accounts and vouchers relating thereto. Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it, and at the expense of the Central Government if appointed by it, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director, or any Member or any other officer of the Bank.

(2) The auditors shall make a report to the shareholders or to the Central Government, as the case may be, upon the annual balance-sheet, the statement of profit and loss and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet and the statement of profit and loss are full and fair statements containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the Central Board or a Local Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Central Board at the general meeting.

Acceptance of liabilities.

30. The Bank shall accept and honour all liabilities, obligations and commitments incurred and made by the Promoters Company, Limited, formed to provide for the establishment of the Bank in accordance with the rights and powers with which that Company, is invested by its Memorandum of Association.

Liquidation of the Bank, VII of 1913.

31. Nothing in the Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the Central Government, and in such manner and under such terms and conditions, including the terms as to calls on and forfeiture of shares, as the Central Government may by its order of liquidation direct.

Power of the Central Board to make bye-laws.

32. (1) The Central Board may, with the previous approval of the Central Government, make bye-laws not inconsistent with this Ordinance to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Ordinance.

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(2) In particular and without prejudice to the generality of the foregoing provisions, such bye-laws may provide for all or any of the following matters, namely :—

(*i*) the maximum amounts which may be advanced or lent to, or for which bills may be discounted for or purchased from, any individual or partnership-firm with or without security;

(*ii*) the conditions subject to which alone advances may be made to Directors, Members or [1]*officers [2][or other staff] of the Bank, or the relatives of such Directors, Members or officers [2][or other staff] or to companies, firms or individuals with which or with whom such Directors, Members, officers [2][or other staff] or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;

(*iii*) the manner in which and the conditions subject to which the Bank may take over the business, including the capital, assets and liabilities, of any other bank;

(*iv*) the granting of advances or loans to any other bank for the purpose of averting or facilitating its winding up;

(*v*) the procedure and manner in which the capital of the Bank may be increased or reduced;

(*vi*) the acquisition, maintenance and transfer of the Bank's residential and business premises;

(*vii*) the contents, maintenance, inspection and closure of the principal and branch registers of shareholders;

(*viii*) the books and accounts to be kept at the various offices of the Bank;

(*ix*) the balancing of accounts and ascertainment of profit and loss;

(*x*) the form and manner in which the balance-sheet and the statement of profit and loss shall be drawn up;

(*xi*) the determination and payment of dividend and transfer of profits to reserves;

(*xii*) the preparation and transmission of returns to the Registrar of Joint Stock Companies and to the Central Government;

(*xiii*) the evidentiary value, form, issue and renewal of certificates of shares;

(*xiv*) the calls on shares, the payment of such calls, joint and several liabilities of shareholders in respect of such calls, the Bank's lien on shares, the manner of its enforcement, forfeiture and the application of proceeds of sale;

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1. The word "other" omitted by the National Bank of Pakistan Ordinance (Amdt.) Act, 1953 (XXIX of 1953), s. 5.

2. Ins. *ibid.* s. 5.

(*xv*) the manner in which and the conditions subject to which shares may be allotted, held, transferred and transmitted and generally all matters relating to the rights and duties of shareholders;

(*xvi*) the manner in which general and special meetings shall be convened and held, the quorum thereat, the procedure to be followed at such meetings, the manner in which votes may be exercised and the appointment and election of Chairmen of such meetings;

(*xvii*) the manner in which local and special local meetings shall be convened and held, the quorum thereat, the procedure to be followed at such meetings, the manner in which votes may be exercised and the appointment and election of Chairmen of such meetings;

(*xviii*) the powers exercisable by local and special local meetings;

(*xix*) the holding and conduct of elections under this Ordinance;

(*xx*) the final decisions on doubts and of disputes regarding the qualifications of candidates or the validity of elections;

(*xxi*) the manner in which meetings of the Central and Local Boards shall be convened and held, their quorum, the procedure to be followed at such meetings, votes of Directors, Members and ex-officio members and the manner in which they may be exercised, and the appointment or/and election of Chairmen of such Boards;

(*xxii*) the effect of vacancies in the Central or Local Boards and of subsequent discovery of disqualifications of a Director or Member;

(*xxiii*) the obligations and immunities of Directors and Members;

(*xxiv*) the distribution of business amongst the Directors and Members and their remuneration, if any;

(*xxv*) the powers of the Local Boards and the limits within which they shall exercise such powers;

(*xxvi*) the delegation of any powers of the Central or Local Boards, to committees consisting of Directors or Members, as the case may be, and the conduct of business in such committees;

(*xxvii*) the establishment and discontinuance of branches and agencies in Pakistan or elsewhere and the nature and extent of the business any branch or agency may transact;

(*xxviii*) the recruitment of officers and staff of the Bank including the terms and conditions of their service, and the constitution and management of staff and superannuation funds for the officers and servants of the Bank;

(*xxix*) the authority to draw, accept, endorse and execute documents on behalf of the Bank;

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(*xxx*) the provision of common and official seals of the Bank and the manner and effect of their use;

(*xxxi*) the manner and form in which contracts binding on the Bank may be executed;

(*xxxii*) the conduct [1][, institution] and defence of legal proceedings and the manner of signing pleadings;

(*xxxiii*) the addresses of shareholders and the issue and service of notices;

(*xxxiv*) the service of notice on the Bank; and

(*xxxv*) generally, for the efficient conduct of the business, discharge of functions and management of the Bank.

33. [*Transitional provisions*] *Omitted by the National Bank of Pakistan (Amdt.) Ordinance*, 1960 (*LII of* 1960), *s.* 18.

KH. NAZIMUDDIN,
Governor-General.

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1. Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 17.

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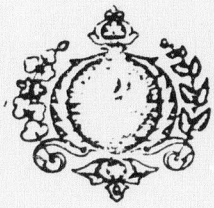
EXHIBIT E--NATIONAL BANK OF PAKISTAN BY-LAWS
ANNEXED TO STIPULATION OF FACTS

National Bank of Pakistan

(Constituted under Ordinance No. XIX of 1949)



BYE LAWS

Issued by the Central Board of Directors

(AUGUST, 1970)

Price Re. 0.50

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Exhibit E annexed to Stipulation of Facts

NATIONAL BANK OF PAKISTAN

BYE-LAWS

In exercise of the powers conferred by Section 32 of the National Bank of Pakistan Ordinance XIX of 1949, the Central Board of the National Bank of Pakistan has, with the previous approval of the Central Government, made the following bye-laws :

Definitions.

1. In these bye-laws unless there is anything repugnant in the subject or context ;

(a) "the Ordinance" means the National Bank of Pakistan Ordinance 1949;

(b) Other words and expressions have the same meaning as in the Ordinance.

Maximum Limits of Advances.

2. (a) Except upon the security mentioned in clauses (a), (b) and (c) of sub-section (1) of Section 25 of the Ordinance the Bank shall not make advances or loans to, or discount bills for or purchase bills from, any individual or partnership firm of an amount exceeding in the aggregate at any one time twenty lakhs of rupees.

(b) Accounts may be overdrawn without security to the extent of rupees five lakhs provided that loans and overdrafts in excess of this limit may be made with prior approval of the Central Board of Directors of the Bank, to any foreign Government without Security.

Advances to Directors, Members, Officers, or Servants.

3. (a) No Director or Member shall sit, judge or vote on any matter connected with any business of the Bank in which he is personally concerned or on any motion respecting the advance or loan of money or otherwise giving credit to himself, his partner, co-trustee, servant or relative or to a firm, company or individual, with which or with whom such Director or Member is connected as partner, director, manager, servant, shareholder or otherwise.

(b) Directors and Members shall notify to the Bank the names of all companies in which they are interested and shall also declare such interest any time when an advance to any of the said companies is being considered.

(c) No advance shall be made without the sanction of the Central Board to the Managing Director and without the sanction of the Managing Director or officers authorised by him in this behalf to any other officer or servant of the Bank save on the security mentioned in clauses (a), (b), (c) and (e) of sub-section (1) of Section 25 of the Ordinance.

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Acquisition of Premises.

4. For the purpose of providing buildings and places for carrying on the business of the Bank, and for providing residences for its officers and servants, the Bank may acquire any interest in immovable property, and may sell, buy, exchange, let, furnish, repair, insure against fire and other risks or otherwise deal with such property in such manner as may be conducive to the interests of the Bank.

Contents, maintenance, inspection and closure of the Principal and Branch Registers.

5. (a) The Principal register of shareholders of the Bank shall be maintained at its Head Office at Karachi and shall contain in alphabetical order the name of every shareholder, his occupation and registered address, the branch register on which his shares are registered the number of shares standing in his name, the date on which he was registered on such branch register and the date on which he ceases to be a shareholder. The entries in this register shall be made from the statements received from the Local Boards under para (e) below.

(b) The branch registers of shareholders shall be maintained at the offices of the Local Boards and shall contain the following particulars in respect of the shareholders qualified to be registered therein:

(i) the name and occupation, if any, of each of such shareholders and a statement of the shares held by him, distinguishing each share by its number;

(ii) the address at which each shareholder is ordinarily resident or has his principal place of business;

(iii) the date on which each shareholder is registered as such, the manner in which he has acquired his shares and, except in the case of first allotment, the name of the previous holder of the shares and the register on which the shares were last entered;

(iv) the date on which any person ceases to be a shareholder and the name of the person to whom and the register to which the shares have been transferred.

(c) In the case of joint-holders of any shares, their names and other particulars required under this bye-law shall be grouped under the name of the first of such joint-holders.

(d) No person either singly or jointly with other, shall be registered as a shareholder in more than one branch register.

(e) A copy of every entry made in the branch register shall be forwarded immediately to the Head Office for entry in the Principal register.

(f) Except when closed under this bye-law, the Principal register or any branch register shall during business hours, and subject to such reasonable restrictions as the Bank may impose so that not less than two hours in each day shall be allowed for inspection be open to the inspection of any shareholder gratis.

(g) A shareholder shall not have the right himself to make a copy of any entry in any such register, but may, except when the register is closed, obtain a copy of any such register

or of any part thereof on prepayment therefor at the rate of one rupee for every hundred words or fractional part thereof.

(h) The Central Board may, by giving notice by advertisement, close the principal or any branch register for any such period not exceeding in the aggregate sixty days in each year. Registration of transfers of shares may be suspended during such periods of closure of registers.

6. (a) Books showing the overall position of the Bank's business and accounts of the Bank shall be maintained at the Head Office and books showing the overall position of the Bank's business and accounts of the respective areas of the Local Board shall be maintained at the offices of the Local Boards and the usual and proper banking and account books shall be maintained at the branches and agencies of the Bank, but the Central Board or the Managing Director may direct the maintenance of any additional ledger, register or book for use at any office, Branch or agency. Books and Accounts.

(b) Not more than two suspense accounts (i.e. accounts in which items which cannot be passed at once into their proper accounts are in the meantime debited or credited) shall be kept at any office or branch. Each branch shall forward monthly to the Local Board concerned a detailed statement of the suspense accounts kept showing all the items outstanding.

7. (a) The Bank shall within thirty days from the date of the general meeting in each year file with the Registrar of Joint Stock Companies and transmit to the Central Government a copy of the principal register of shareholders. Returns.

(b) The Bank shall within two months from the date on which the annual accounts of the Bank are closed file with the Registrar of joint Stock Companies three copies and transmit to the Central Government one copy of the annual balance sheet and statement of profit and loss signed by a majority of Directors and certified by the auditors. A copy of the last audited balance sheet and statement of profit and loss shall be displayed at all offices of the Bank.

(c) From such date as the Central Government may determine a weekly statement of the Bank's affairs shall be compiled in the following form:

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Exhibit E annexed to Stipulation of Facts

NATIONAL BANK OF PAKISTAN

Statement of Affairs as on..... ....

LIABILITIES	(In nearest thousands of Rupees)		ASSETS	(In nearest thousands of Rupees)	
1. CAPITAL:-			1. CASH:-		
(i) Authorised			(i) In hand		
(ii) Issued and subscribed ...			(ii) With State Bank of Pakista ...		
(iii) Called up			(iii) With other Banks		
(iv) Less Calls unpaid (if any) ...			2. MONEY AT CALL AND SHORT NOTICE.		
(v) Add amount on forfeited shares (if any)			3. BULLION.		
2. RESERVE LIABILITY OF SHAREHOLDERS.			4. INVESTMENTS:-		
3. RESERVE FUND.			(i) Governments Securities including Treasury Bills ...		
4. DEPOSITS:-			(ii) Other Authorised Securities ...		
(i) Fixed and Short Term ...			5. ADVANCES:-		
(ii) Savings			(i) Loans		
(iii) Current			(ii) Cash Credits & Overdrafts ...		
(iv) Call Deposits			(iii) Bills Discounted & Purchased ...		
(v) Other Accounts			6. LIABILITY OF CONSTITUENTS FOR ACCEPTANCES PER CONTRA.		
5. BORROWINGS:-			7. DEAD STOCK.		
(i) From S. B. P.			8. SUNDRIES.		
(ii) From Other Banks			Total Rs ...		
6. ACCEPTANCES FOR CONSTITUENTS PER CONTRA.					
7. SUNDRIES.					
Total Rs. ...					

Share Certificates.

8. (a) A certificate issued under the official seal of the Bank specifying the shares held by any shareholder shall be *primafacie* evidence of the title of the shareholder to the shares therein specified.

(b) Every person whose name is entered as a shareholder in a branch register shall, without payment, be entitled to a certificate under the official seal of the Local Board concerned specifying the shares held by him and the amount paid thereon;

Provided that in respect of shares held jointly by several persons, the Bank shall not be bound to issue more than one certificate, and delivery of a certificate to one of several joint holders shall be sufficient delivery to all.

(c) A fee of one rupee per certificate shall be payable for the renewal of a certificate of shares which has become mutilated or has been lost or destroyed, or for the sub division of a share certificate.

Provided that a Local Board may refuse to issue a new certificate for a certificate which has become mutilated or has been lost or destroyed until the procedure prescribed by the Local Board with the previous approval of the Central Board has been followed and the indemnities demanded by the Local Board have been furnished.

Bank's lien, calls and forefeiture of shares.

9. (a) The Bank shall have a first and paramount lien on every share registered in the name of a shareholder (whether solely or jointly with others) and upon the proceeds of sale thereof for debts, liabilities and engagements solely or jointly with any other person to or with the Bank, whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not and such lien shall extend to all dividends from time to time declared in respect of such shares.

(b) The Bank may sell, in such manner, as it thinks fit any shares on which it has a lien, but no sale shall be made unless some money in respect of which the lien exists is presently payable nor until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable has been given to the registered holder for the time being of the share, or to the person entitled by reason of his death or insolvency to the share

(c) The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to like lien for sums not presently payable, as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

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(d) The Bank may, subject to the provisions of sub-section 2 of Section 4 of the Ordinance, from time to time, make calls upon the shareholders in respect of any moneys unpaid on their shares, provided that no call shall be payable at less than two months from the last call; and each shareholder shall (subject to receiving at least one month's notice specifying the time of payment) pay to the Bank at the time so specified the amount called on his shares.

(e) The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

(f) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon at the rate of six per cent per annum from the day appointed for the payment thereof upto the time of the actual payment, but the Central Board may at its discretion waive payment of that interest wholly or in part.

(g) If a shareholder fails to pay any call or any part of a call on the day appointed for payment thereof, the Central Board may, at any time thereafter during such time as any part of such call remains unpaid, serve a notice on him requiring payment of so much of the call as is unpaid, together with any interest which may have accrued.

(h) The notice shall specify a date (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non payment at or before time so specified, the shares in respect of which the call was made shall be liable to be forfeited.

(i) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be fofreited by a resolution of the Central Board to that effect.

(j) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Central Board may think and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Central Board impose.

(k) A person whose shares have been forfeited shall cease to be a shareholder in respect of the forfeited shares, but shall notwithstanding, remain liable to pay to the Bank all monies which, at the time of forfeiture were presently payable by him to the Bank in respect of the shares, but his liability shall cease if and when the Bank receives payment in full of the nominal amount of the shares.

Allotment, transfer, transmission of shares and rights and duties of shareholders.

10 (a) All powers in regard to the allotment of shares shall vest in the Central Board, which shall be entitled to refuse to allot shares to any person or to allot a smaller number of shares than applied for without assigning any reason for the same.

Exhibit E annexed to Stipulation of Facts

(b) A shareholder may apply to the Local Board of the place at which his share is registered to have his name transferred to another register and both Local Boards concerned, if they are satisfied that there has been a bonafide change of the ordinary place of residence or of the principal place of business of such shareholder, shall cause their registers to be amended accordingly. A sum of rupee one shall be payable to the Bank for such amendment of the registers.

(c) Subject to the restrictions contained in the Ordinance and in these bye-laws shares shall be transferable but every transfer shall be in writing in the following form :

I, _____ of _____, in consideration of the sum of rupees _____ paid to me by _____ of _____ (hereinafter called the transferee) do hereby transfer to the transferee the share (or shares) numbered _____ in the National Bank of Pakistan and registered in the _____ register to hold unto the transferee, his executor, administrators and assigns, subject to the several conditions on which I hold the same at the time to execution hereof, and I, the transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid, and I the transferee do hereby declare that I am not by reason of any thing contained in any law for the time being in force incompetent to enter into any contract and request that I be registered in respect of the said share (or shares) in the _____ register,

Under our hands this _____ day of _____
Witness to the signature of etc.

(d) The instrument of transfer of any share shall be submitted to the Local Board of the place at which the share is registered and shall be signed by the transferor and the transferee and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register concerned in respect thereof. Each signature to such transfer shall be duly attested by the signature of one credible witness who shall add his address and occupation.

(e) A Local Board may decline to recognise any instrument of transfer unless:-

(i) a sum not exceeding rupees two is paid to the Bank in respect thereof which sum shall not in any event be refunded;

(ii) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Bank may reasonably require to show the right of the transferor to make the transfer.

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(f) A Local Board may decline to register any transfer of shares to a person of whom it does not approve, and may also decline to register any transfer of shares on which the Bank has a lien.

(g) The executors or administrators of a deceased sole holder of a share, the holder of a succession certificate issued under Part X of the Succession Act, 1925, in respect of the share, and a person in whose favour a valid instrument of a transfer of the share was executed by the deceased holder during his life-time, shall be the only persons who may be recognised by the Bank as having any title to the share. In the case of a share registered in the names of two or more holders, the survivor or survivors and, on the death of the last survivor, his executors or administrators or any person who is the holder of a Succession Certificate in respect of such survivor's interests in the share, and person in whose favour a valid instrument of transfer of the share was executed by such survivor during his life-time, shall be the only persons who may be recognised by the Bank as having any title to the share. The Bank shall not be bound to recognise such executors or administrators unless they shall have obtained probate or letters of administration or other legal representation as the case may be from a duly constituted Court in Pakistan having effect at the place where the branch register in which the deceased was registered as a shareholder is maintained.

Provided that in any case where the Local Board concerned shall in their absolute discretion think fit, it shall be lawful for such Local Board to dispense with the production of a Succession Certificate, letters of administration or such other legal representation upon such terms as to indemnity or otherwise as they may think fit

(h) Any person becoming entitled to a share in consequence of the death or insolvency of a shareholder or in consequence of a transfer by a deceased shareholder during his life-time shall upon such evidence being produced as may be required by the Bank, have the right, subject to the provisions of paras (e), (f) and (g) either to be registered as a shareholder in respect of the share or, instead of being registered himself,

to make such transfer of the share as the deceased or insolvent person could have made.

(i) Any person qualified to be registered as a shareholder becoming entitled to a share in consequence of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred on a shareholder in relation to the meetings of the Bank.

Meetings of the Central and Local Boards.

11. (a) Meetings of the Central Board shall be convened by the President or the Managing Director at least six times in each calender year and at least once in each quarter.

Provided that the Central Board shall meet at least once in Dacca and once in Lahore in each calendar year.

(b) Any three Directors or any Local Board may require the Managing Director to convene a meeting of the Central Board at any time and the Managing Director shall forthwith convene a meeting accordingly.

(c) At meetings of the Central Board four Directors present shall form a quorum, and each Director present shall have one vote.

(d) The President of the Central Board shall, in the event of an equality of votes, have a second or casting vote.

(e) In the absence of the President from a meeting of the Central Board the Directors present shall elect from amongst themselves a Chairman for such meeting, who shall, in the event of an equality of votes have a second or casting vote.

(f) Not less than fifteen clear days' notice shall be given of each meeting of the Central Board and such notice shall be sent to every Director to his registered address. Whenever it is found necessary to convene an emergency meeting, five clear days' notice shall be given to those Directors only who are at that time in Pakistan.

PROVIDED THAT the first meeting of the Central Board shall, if the requisite number of Directors to form the quorum is present, be deemed to be properly and validly convened and its decisions and resolutions binding on the

Bank notwithstanding any provisions in these bye-laws to the contrary.

(g) No business other than that for which the meeting was convened shall be discussed at a meeting of the Central Board, except with the consent of the Chairman and a majority of the Directors present, unless one clear week's notice has been given of the same in writing to the Chairman.

(h) A copy of the minutes of each meeting of the Central Board shall be circulated as soon as possible after each meeting for the information of the Directors and shall be signed by the Chairman at that or the next succeeding meeting.

(i) At each meeting of the Central Board the minutes of the next preceding meeting shall be submitted together with the minutes of the Committee meeting and copies of the minutes of the meetings of the Local Boards held in the interval.

(j) Meetings of a Local Board shall be convened from time to time by the Managing Director or Deputy Managing Director or the Chairman of the Local Board concerned.

(k) Any three Members may require the Secretary to convene a meeting of a Local Board at any time and the Secretary shall forthwith convene a meeting accordingly.

(l) At meetings of a Local Board three Members pr sent shall form a quorum, and each Member shall have one vote.

(m) At the first meeting of a Local Board which takes place after the in-coming Members have assumed office the Local Board shall elect from among its Members a Chairman who shall hold office until he remains a Member, and whenever the office of Chairman becomes vacant the Local Board shall at its next meeting elect another Chairman who shall hold office for the remainder of the term.

(n) The Chairman shall, in the event of an equality of votes, have a second or casting vote.

(o) In the absence of the Chairman from a meeting of a Local Board the Members present shall elect from amongst themselves a Chairman for that meeting who shall, in the event of an equality of votes have a second or casting vote.

(p) The Managing Director may nominate a Senior Officer, by designation, in every area to be the ex-officio Secretary of the Local Board in that area.

(q) At the meetings of a Local Board ex-officio Members shall have the right of discussion but not of vote.

(r) As soon as possible after each meeting a copy of the minutes of each meeting of a Local Board shall be circulated for the information of the Members concerned and shall be signed by the Chairman of the Local Board concerned at that or the next succeeding meeting. Copies of such minutes together with copies of the minutes of the Committee meeting of the Local Board concerned held in the interval shall be submitted forthwith to the Central Board for ratification.

(s) At each meeting of a Local Board the minutes of its previous meeting shall be submitted together with the minutes of the Committee meetings of the Local Board concerned held in the interval.

Acts of Directors and Members valid nothwithstanding subsequent discovery of vacancy or disqualification.

12. (a) No act or proceeding of the Central Board or of a Local Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among its Directors or Members.

(b) All acts done at any meeting of the Central or a Local Board or by any committee of such Board or by any person acting in good faith as a Director or Member shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such persons or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and duly qualified.

Obligations and immunities of Directors and Members.

13. (a) Every Director or Member shall before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Bank with its customers and all matters relating thereto; and shall by such declaraiton pledge himself not to reveal any of the matters which may come to his knowledge in the discharge of his duties except when required or authorised so to do by the Central or a Local Board or by any law for the time being in force.

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(b) Every Director and every Member shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except those caused by his own wilful act or omission.

(c) A Director or Member shall not be responsible for any other Director or Member or for any Officer or servant of the Bank or for any loss or expense caused to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank; or by any thing done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or omission.

Powers of Local Boards.

14. (a) Each Local Board shall to the extent provided in this bye-law have power generally to transact business within the area for which it is established.

(b) Each Local Board shall in addition to the powers conferred on it under these bye-laws have power as regards entries in the branch registers concerned to examine and rectify transfers and transmissions and to approve or refuse to approve transfers of shares and to issue or refuse to issue certificates of shares.

(c) A Local Board shall not without the previous sanction of the Central Board discount bills for or purchase bills from or advance or lend in any way to any Company or association with limited liability or to any individual or partnership firm amounts exceeding the following in the aggregate at any one time.

	Limited Companies	Individual and Partnership firms.
(1) Under section 25 (1) (a) of the Ordinance.	50,00,000	12,00,000
(2) Under section 25 (1) (b) of the Ordinance.	5,00,000	2,00,000
(3) Under section 25 (1) (c) of the Ordinance.	20,00,000	20,00,000

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(4) Under section 25 (1) (d) of the Ordinance.	2,00,000	50,000
(5) Under section 25 (1) (e) of the Ordinance.	1,00,000	25,000
(6) Under section 25 (1) (f) of the Ordinance.	20,00,000	...
(7) Under section 25 (1) (g) of the Ordinance.	1,00,000	25,000
(8) Under section 25 (6) of the Ordinance.	10,00,000	5,00,000
(9) Under section 25 (11) of the Ordinance.	2,00,000	75,000
(10) Under section 25 (13) of the Ordinance.	10,00,000	5,00,000
(11) Under section 25 (14) of the Ordinance.	10,00,000	5,00,000

(d) For the proposes of this bye-law indebtedness to the Bank shall be deemed to include the maximum drawing powers sanctioned on fluctuating accounts and the maximum limits sanctioned for the discount and purchase of bills, even though the actual drawings or bills discounted or purchased are less than the maximum drawing powers and limits sanctioned.

(e) If at the time of consideration by a Local Board of an advance or loan to a joint stock company of which Members are directors and a majority of the Members present are directors of that Company, no advance or loan shall be finally sanctioned without the previous approval of the Central Board.

(f) These powers shall be the maximum that any Local Board may exercise and the Central Board shall with the previous approval of the Central Government have power to vary and withdraw all or any of them in respect of all or any Local Board.

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(g) Notwithstanding anything contained in these Bye-Laws or rules made thereunder the powers, authorities, privileges, duties, obligations and functions of Local Boards, until they are constituted, may be exercised and performed by the Central Board.

Committees of the Central and Local Boards and Distribution of business amongst Directors and Members.

15. (a) There shall be a committee of the Directors to be called the Committee of the Central Board which shall ordinarily meet fortnightly to attend to the business of the Bank. Such Committee shall consist of the President, the Managing Director, and four Directors elected by the Central Board for a period of 6 months.

(b) Two Directors shall form a quorum of the Committee of the Central Board.

(c) The President of the Central Board or in his absence a Chairman elected by the Directors present shall preside at the meeting of the Committee of the Central Board and shall in the event of an equality of votes have a second or casting vote.

(d) The Committee of the Central Board shall be entiled to exercise all the powers of the Central Board excepting those specifically withdrawn from it by the Central Board.

(e) The proceedings of the Committee of the Central Board shall be submitted to the Central Board for ratification.

(f) There shall be a Committee of each Local Board to be called the Committee of the Local Board concerned which shall ordinarily meet once a week and shall consist of the Secretary and three Members of the Local Board concerned. At each meeting of the Local Board concerned the Members shall decide the manner in which they shall as equally as possible in rotation attend the meetings of the Committee of the Local Board concerned.

(g) Two Members excluding the Secretary shall form a quorum of the Committee of a Local Board.

(h) The Chairman of a Local Board or in his absence a Chairman elected by the Members present shall preside at meetings of the Committee of a Local Board and shall in the event of an equality of votes have a second or casting vote

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(i) The Committee of a Local Board shall exercise such powers as are delegated to it by the Local Board concerned.

(j) The proceedings of the Committee of a Local Board shall be submitted to the Local Board concerned for ratification.

Remuneration of Directors and Members.

16. (a) All Directors except the Managing Director and the Government Officials nominated under Section 14 (c) of the Bank's Ordinance, shall receive a fee of Rs. 100/- for each Meeting of the Central Board and a fee of Rs. 50/- for each Meeting of the Committee of the Central Board or of a technical Committee, or sub-committee appointed by the Central Board attended by them, in addition to travelling expenses, if any. A Director other than the Managing Director and the Government Officials nominated under Section 14 (c) of the Bank's Ordinance shall also be entitled to receive a meeting fee of Rs. 100/- when called upon to preside over a meeting of the shareholders, In addition to the travelling expenses if, any.

(b) Members other than the Managing Director or Deputy Managing Director shall receive a fee of Rs. 50/- for each meeting of the Local Board and a fee of Rs. 25/- for each meeting of the Committee of the Local Board attended by them in addition to the amount of actual travelling expenses, if any. A Member other than the Managing Director or Deputy Managing Director shall also be entitled to receive a fee of Rs. 50/- when called upon to preside over the meeting of the shareholders, in addition to the travelling expenses, if any.

(c) Directors and Members shall be paid travelling and Diem Allowances on the following scales provided that Directors shall also be entitled to the travelling allowance and Diem Allowance at these rates if deputed by the Central Board to visit any place on the Bank's business or to serve on any technical Committee or Sub-committee : —

(i) one first-class rail or steamer fare or air passage;

(ii) road mileage @ Paisa 0-62 per mile of the journey or any part thereof performed by road; "Provided that travelling allowance for journeys undertaken by road between

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places connected also by rail or steamer, will be admissible on the basis more economical to Bank" ;

(iii) diem allowance of Rs. 40/- for the actual days of journey and a maximum of 3 days halt, if actually made out of the station of residence, the allowance to be increased by 50% for journey or halt outside Pakistan ;

(iv) the cost actually incurred for making reservation of the accommodation, including air-conditioned accommodation, or any tax on the fare etc.;

(v) actual cost of premia in respect of aviation policy for an amount not exceeding Rs. one lac if taken and other incidental charges such as porterage, luggage freight etc., when actually paid ;

(vi) the travelling allowance will ordinarily be admissible on the basis of a journey by the shortest route but where journey is performed by a route which is not the shortest but is cheaper than the shortest, Travelling Allowance will be paid according to the route actually used.

Provided that Government-officials-nominated under Section 14 (c) of the Bank's Ordinance shall be paid Travelling and Diem Allowance according to the Government Rules applicable to them.

(vii) the travelling allowance will ordinarily be admissible from the station of residence to the station of meeting and back, but where the journey undertaken from a place other than the station of residence is more economical to the Bank the travelling allowance will be paid on the basis of the Journey actually performed.

Establishment and discontinuance of Branches and Agencies.

17. (a) Subject to any law for the time being in force Central Board may :

(i) establish branches or agencies at such places, whether in Pakistan, or elsewhere, as it deems advantageous for the interest of the Bank ; and

(ii) discontinue any branch or agency established under this bye-law.

(b) The Central Board may define the nature and extent of the business which any branch or agency established under this bye-law may transact.

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18. (a) The Central Board shall have power :— Officers of the Bank.

(i) to appoint and engage such officers, servants and persons as it may consider necessary for the efficient conduct of the business of the Bank ;

(ii) to suspend, remove, dismiss and discharge any such officer, servant or person ;

(iii) to frame, with the previous approval of the Central Government, rules to which the Officers and staff of the Bank shall be subject;

(iv) to make provisions, with the previous approval of the Central Government, to grant salaries, pensions and other emoluments to officers and staff, and to grant gratuities or other financial assistance, either temporary or permanent, to widows, children or other dependents of deceased officers or staff; and

(v) to constitute, with the previous approval of the Central Government, Provident, Pension and Guarantee Funds for Officers and Staff and to frame rules for the administration of such funds and the payments to be made therefrom.

(b) No Managing Director, Deputy Managing Director, Officer or employee of the Bank shall, without the previous sanction of the Central Board, engage in any other banking or commercial business either on his own account or on behalf of any other person or persons or shall act as agent for the sale or purchase of Government or other securities.

(c) Every auditor, officer, servant or person employed or engaged by the Bank shall before entering upon his duties sign a declaration required by bye-law 13 (a).

(d) The Central Board may authorise the Managing Director, Deputy Managing Director, and any other officer or employee of the Bank to exercise powers specified by the Central Board.

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(e) Notwithstanding anything contained in Bye-law 18 (d), the Central Board may with the previous approval of the Central Government authorise the Managing Director and other officers of the Bank to incur such expenditure and in such manner as may be specified by the Central Board from time to time.

Signing of Accounts receipts and documents of the Bank.

19. The Managing Director and Deuputy Managing Director, and such other officers and employees of the Bank as the Central Board may authorise in this behalf by notification in the official Gazette of Pakistan are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer promissory notes, stock-receipts, stock debentures, shares, securities and documents of title to goods, standing in the name of or held by the Bank, and to draw, accept and endorse bills of exchange and letters of credit, in the current and authorised business of the Bank, to sign all other accounts receipts and documents connected with such business and to execute proxies to vote at meetings on behalf of shareholders from whom the Bank holds general powers of attorney.

Seals of the Bank.

20. (a) The common seal of the Bank shall not be affixed to any instrument except in the presence of at least three Directors including the Managing Director, who shall sign their names to the insrument in token of their presence, and the signatures so affixed shall not be deemed to be signatures as witness to the instrument and unless so signed such instrument shall be of no validity.

(b) The Bank shall have for use by the Local Boards official seals which shall be facsimiles of the common seal of the Bank with the addition of the name of the Local Board by which it is to be used.

(c) The official seal shall be affixed to the certificates issued in respect of shares entered in the branch register kept at those places and may be used for the purposes specified in para (f).

(d) An instrument to which an official seal duly affixed shall bind the Bank as if it had been sealed with the common seal of the Bank.

(e) An official seal shall not be affixed to any instrument except in the presence of at least two Members of the Local Board concerned and the Secretary who shall sign their names to the instrument in token of their presence and the signature so affixed shall not be deemed to be signature as witness to the instrument and unless so signed such instrument shall be of no validity.

(f) The official seal may be affixed by Local Boards to instruments of the following descriptions in connection with business at offices under their respective jurisdiction, namely:—

(i) leases of office premises, godowns, houses and other property acquired in connection with the business of the Bank and surrenders and transfers of such leases ;

(ii) conveyances of property bought or sold by the Bank ;

(iii) instruments whereby any property is mortgaged to the Bank, conveyances on sale or by way of transfer of mortgage, and re-conveyances, surrenders and release of such property;

(iv) powers of attorney granted by the Bank ;

(v) agreements for service of employees whom the Local Boards are empowered to appoint ;

(vi) cotracts of indemnity, suretyship or guarantee with specific security or otherwise ; and

(vii) instruments of appointment or discharge of the Bank as trustees of any trust, or connected with the administration of any estate in which the Bank is concerned as executor, trustee, or otherwise.

21. (a) Contracts on behalf of the Bank may be made as follows :— Contracts.

(i) Any contract which, if made between private persons and required by law to be in writing, may be made on behalf of the Bank in writing, signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(ii) Any contract which if made between private persons, not required by law to be in writing and not reduced to writing may be made by parole on behalf of the bank by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(b) All contracts made according to the provisions of this bye-law shall be effectual, and shall bind the Bank and all other parties thereto and their legal representatives.

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Conduct and defence of legal proceedings.

22. Plaints, written statements, petitions and applications may be signed and verified, affidavits may be sworn or affirmed, bonds may be signed, sealed and delivered and generally all other documents connected with legal proceedings whether contentious or non-contentious may be made and completed on behalf of the Bank by any officer empowered by or under bye-law 19 to sign documents for and on behalf of the Bank.

Notices.

23. (a) A notice may be given by the Bank to any shareholder either personally or by sending it by Post to him to his registered address or, if he has no registered address in Pakistan, to the address, if any, supplied by him to the Bank for giving of notice to him.

(b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, shall be deemed to have been effected at the time at which the letter would have been delivered to him in the ordinary course of post.

(c) A shareholder who has no registered address in Pakistan, and has not supplied to the Bank an address for the giving of notice to him shall not be entitled to any notice, notwithstanding anything contained in these bye - laws.

(d) A notice may be given by the Bank to the jointholders of a share by giving the notice to the jointholder named first in the register in respect of the share and such notice shall be deemed to be sufficient notice to all other jointholders.

(e) Any notice given in accordance with the foregoing provisions shall be deemed to have been duly given notwithstanding that the shareholder be then deceased and whether or not the Bank had notice of his death and shall in that event be deemed to be a notice to his legal representative.

(f) A notice may be serviced on the Bank by leaving it at, or sending it by post to, the Head Office of the Bank.

Taking over of the business of any other bank.

24. (a) The Bank may with the sanction of the Central Government enter into negotiation with another bank for the amalgamation or purchase of in any other manner taking over the business of that bank including its capital, assets and liabilities and may pay the consideration for such arrangement

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either in cash or by the allotment of shares of the Bank or partly in cash or partly in shares, or in any other manner approved by the Central Government and may (subject to the provisions of the Ordinance relating to the increase of capital) for the purpose of such payment, increase the capital of the Bank by the issue of such additional number of shares as may be determined by the Bank.

(b) Any business so acquired shall after the acquisition be carried on by the Bank subject to the provisions of the Ordinance.

Granting of advances or loans to any other bank.

25. (a) The Bank may, either alone or conjointly with others, for the purpose of averting the winding up of any other bank or where any such bank is being wound up for facilitating the winding up, advance or lend money to, or open a cash credit in favour of, such bank or the liquidators thereof, as the case may be, for any period, upon the security of all or any of the assets whatsoever of such bank.

(b) All advances, loans or cash credits granted to any bank under this bye-law shall be subject to the prior sanction of the Central Board, or, in case of urgency should the sanction of the Central Board be not available, subject to the prior sanction of its committee, and the Bank shall not make or grant such advance, loan or cash credit until a valuation of the assets of the bank seeking such accommodation has been made, submitted and accepted, but in no case shall such advance, loan or cash credit exceed such proportion of the assets so disclosed by valuation as the Central Board or its committee shall fix.

Alteration of Capital.

26. (a) When a special resolution to increase the capital of the Bank has been passed the Central Board may, subject to the provisions of the Ordinance and to the special directions if any, given in reference thereto by the meeting of the shareholders at which such resolution has been passed :

(i) make such orders as it thinks fit for the opening of subscriptions by the shareholders towards such increase of capital ;

(ii) allow to the shareholders such period to pay up the subscriptions as it thinks fit

(iii) direct the manner in which the shareholders shall subscribe and pay into the Bank the proportions of new capital ; and

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(iv) make such orders as it thinks fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in the manner aforesaid.

(b) Any new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture or otherwise, as the shares in the original capital, and shall rank *Pari Passu* with them.

(c) when a special resolution to reduce the capital of the Bank has been passed, the Central Board may, subject as aforesaid, determine the manner in which the reductions shall be carried into effect.

Balancing of accounts and ascertainment of profit and loss.

27. (a) The Central Board shall cause the books of the Bank to be balanced on every thirtyfirst day of December, and a balance sheet in the form given in bye-law 28 shall be prepared.

(b) An Account of the profit and loss of the Bank during the previous year shall be taken on or immediately after every thirtyfirst day of December.

Balance sheet and statement of profit and loss.

28. (a) The annual balance sheet shall be in the following form or as near thereto as circumstances admit and shall contain the particulars specified hereunder, namely:—

A. LIABILITIES.

1. CAPITAL.
   (i) Authorised.
   (ii) Issued and Subscribed.
   (iii) Called Up.
   (iv) Less call unpaid (if any).
   (v) Add amount paid up on forfeited shares (if any).

2. RESERVE LIABILITY OF SHAREHOLDERS.

3. RESERVE FUND (S).

4. DEPOSITS
   (i) Fixed and Short Term Deposit.
   (ii) Savings Bank.
   (iii) Current Account.
   (iv) Other Accounts.

5. LOANS AGAINST SECURITIES PER CONTRA.

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6. ACCEPTANCES FOR CONSTITUENTS.

7. ADJUSTING ACCOUNT OF INTEREST COMMISSION ETC., (WHEN IN CREDIT).

8. DIVIDENDS :-

(i) For the year ended
(ii) Unclaimed
(iii) Profit and Loss Account
(iv) Contingent Liabilities (if any).

B. ASSETS :

1. INVESTMENTS :-

(i) Government Securities
(ii) Other Trustee Securities.
(iii) Other Authorised Securities.
(iv) Immovable Properties at or below cost.

2. ADVANCES :-

(i) Loans.
(ii) Cash Credits and Overdrafts.
(iii) Bills discounted and Purchased.

Particulars of Advances :-

(1) Debts considered good in respect of which the Bank is fully secured (This amount includes debts due by Directors, Members and Employees, or by them jointly with others, and by firms in which a Director or a Member is a Partner, aggregating Rs. _____ including Rs. _____ advanced to Directors and Members since 31st December* and recoverable).

(2) Debts considered good for which the Bank holds no security other than the debtors personal security (This amount includes debts due by Directors, Members and Employees, or by them jointly with others, and by firms in which a Director or a Member is a partner, aggregating Rs. _____ Including Rs. _____ advanced to Directors and Members since 31st December* and recoverable).

(3) Liability of Constituents for Acceptances per contra.

(4) Dead Stock :-

Premises, furniture, fittings and equipment.

*Date to be 12 months prior to the date of the Balance Sheet.

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(i) Total cost upto 31st December*
(ii) Additions since 31st December*
(iii) Less sales since 31st December*
(iv) Total Depreciation written off upto the 31st December @

(5) Sundries (Stationery, Stamps. etc.,)

(6) Adjusting Account of interest, commission etc.. (when in debit).

(7) Bullion

(8) Cash
(i) in hand and with the State Bank of Pakistan.
(ii) balances with other banks.

(b) The annual statement of profit and loss shall be in the following form or as near thereto as circumstances admit and shall contain the particulars specified hereunder :-

INCOME

(1) Amount brought forward (if any)
(2) Interest, Exchange, Commission, Discount, etc. for the year less usual and necessary provisions.

EXPENDITURE :

(1) Establishment
(2) Directors' and Members' fees and expenses
(3) Travelling Expenses
(4) Auditor's Fees
(5) Rent, Taxes, Insurance, Lighting, etc.
(6) Pay of Guards
(7) Depreciation on Bank's Property
(8) Repairs to Bank's Property
(9) Law Charges
(10) Postages and Telegrams
(11) Stationery
(12) Miscellaneous expenses.

Total net available balance.

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*Date to be 12 months prior to the date of the balance sheet.

@ Date to be that of the balance sheet.

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ALLOCATION

(1) Amount set aside for payment of a dividend at ..... per cent per annum.

(2) Amount transferred to Reserve Fund.

(3) Amount transferred to Provident and other Funds.

(4) Bonus to Staff.

(5) Balance carried forward.

(c) The Bank's investments in securities shall be divided into two accounts, namely, "Bank's Investments Permanent Account" "Bank's Investments Floating Account". The "Bank's Investments Permanent Account" shall not exceed ten crores of rupees. The valuation of securities forming the "Bank's Investments Permanent Account" and "Bank's Investments Floating Account" shall be made on the basis either of their cost or of their market value on the last day of the year; and the method adopted (whether cost or market value) shall be shown in the balance sheet. Where the value of the Investments shown in the outer column of the balance sheet is higher than the market value, the market value shall be shown separately in brackets.

Dividends and reserves.

29. (a) A dividend may be declared as soon as may be after the thirtyfirst of December and the amount of such dividend shall be determined by the Central Board.

(b) No unpaid dividend shall bear interest as against the Bank.

(c) The Central Board may, before declaring any dividend, set aside out of the profits of the Bank such sums as it thinks proper as a reserve or reserves which shall, at the discretion of the Central Board, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the Bank may be properly

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applied, and pending such application may, at the like discretion, either be employed in the business of the Bank or be invested in any of the securities specified in clauses (a) and (b) of sub-section (1) of section 25 of the Ordinance.

(d) If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

General and Special meetings.

30. (a) General meetings shall be convened by the Central Board and a notice convening such meeting, signed by the Managing Director or Deputy Managing Director, shall be published in the official Gazette of Pakistan and in such other manner as the Central Board may direct, at least fifteen days before the meeting is held.

(b) The Central Board shall convene a special meeting at such time and place as it may determine on the requisition of any three Directors or of not less than one hundred shareholders holding shares of the aggregate nominal value of not less than five hundred thousand rupees, and entitled to vote under section 24 of the Ordinance, if such requisition is signed by the requisitionists and addressed to the Managing Director or Deputy Managing Director stating the objects of the proposed meeting and deposited at the Head Office of the Bank.

(c) The requisition may consist of several documents in like form, each signed by one or more of the requisitionists.

(d) Sixty days' previous notice of any special meeting shall be given by the Central Board under the hand of not less than three Directors and such notice shall state the objects for which the meeting is convened and the time and place of such meeting, and shall be published in the Official Gazette of Pakistan and in such other manner as the Central Board may direct.

Provided that not less than three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank.

(e) If the Central Board does not proceed within 21 days from the date of deposit of the requisition to convene a meeting, the requisitionists or any of them holding more than half of the total nominal value of shares held by all of them, may themselves call the meeting, but a meeting so convened shall not be held after the expiration of three months from the date of deposit of the requisition. If the requisition consists of several documents then the date of deposit of the requisition shall be deemed to be the date of deposit of the last document.

(f) A meeting convened under this bye-law by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by the Central Board.

(g) No business shall be transacted at any meeting, whether general or special, unless a quorum of two hundred shareholders, in person or by proxy, is present at the commencement of such business.

(h) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by shareholders not been Directors, shall be dissolved; in any other case, it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is again not present, the shareholders present at that meeting shall constitute a quorum.

(i) Without the consent of the Chairman, no business other than that for which the meeting was convened shall be transacted or discussed at that meeting, unless not less than one clear month's notice of the same has been given in writing to the Chairman by not less than ten shareholders qualified to vote at such meetings.

(j) Save as is otherwise provided in section 18 of the Ordinance every matter submitted to a meeting, whether general or special, shall be decided by a majority of votes.

(k) A declaration by the Chairman of any meeting, that a resolution has been carried or rejected thereat upon a show of hands, shall be conclusive and an entry to that effect in the book of proceedings of the Bank shall be

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sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution, unless, immediately on such declaration a poll be demanded in writing by ten shareholders present and entitled to vote at such meeting.

(l) If a poll be duly demanded, it shall be taken either at once or at such time and place either by open voting or by ballot, as the Chairman directs and the result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded. At such poll voting shall be either in person or by proxy.

(m) In the case of Joint holders of shares the person whose name stands first in the register of shareholders shall for the purpose of voting at any metting be deemed to be the sole proprietor thereof; and on all occasions the vote of such first named shareholder, either in person or by proxy, shall be allowed as the vote in respect of such share, without proof of the concurrence of other holders thereof.

(n) A shareholder of unsound mind, or in respect of whom an Order has been made by any court having Jurisdiction in lunacy, may vote whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may on a poll, vote by proxy.

(o) Any shareholder duly qualified to vote and desirous of voting personally or by proxy for anothr or others shall attend on the date and at the time and place fixed for the meeting.

(p) (i) No instrument of proxy shall be valid unless in the case of an individual shareholder it is signed by him or his attorney duly authorised in writing or in the case of a Joint holder it is signed by the shareholder first named in the register or his attorney duly authorised in writing or in the case of a corporation it is executed under its common seal or signed by its attorney duly authorised in writing, provided that an instrument of proxy shall be deemed to be sufficiently signed by any shareholder who is, for any reason, unable to write his name, if his mark is affixed thereto and attested by a Judge, Magistrate, Registrar or Sub-Registrar of Assurance or other Gazetted Officer of the Government.

(ii) No person shall be appointed a proxy who is not an individual shareholder and qualified to vote at the meeting in respect of which the proxy is given.

(iii) No proxy shall be valid for any meeting unless it is made out specifically for the purpose of voting at such meeting or at any adjournment thereof.

(iv) No proxy shall be valid unless it is duly stamped and unless it, together with the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority, is deposited at the Principal Office of the Bank at which the shares of the shareholder granting the proxy are registered not later than 4 p.m. on the day not less than 10 clear days before the date fixed for the meeting.

(v) No instrument of proxy shall be valid unless it is in the following form and dated :—

NATIONAL BANK OF PAKISTAN.

I, _____

of _____ being a shareholder of the National Bank of Pakistan holding shares No. _____

HEREBY APPOINT _____,

of _____,

also a shareholder of the National Bank of Pakistan (or failing him _____ of _____ also a shareholder of the National Bank of Pakistan) as my proxy to vote for me and on my behalf at the general/special meeting of the shareholders of the National Bank of Pakistan to be held at _____ on the _____ day of _____ and at any adjournment tehreof.

Dated this _____ day of _____

(vi) An instrument of proxy deposited in terms of this bye-law shall be irrevocable after 4 p.m. on the last date for the deposit of proxies unless on or before such time these shall have been deposited at the Principal Office of the Bank

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DACCA.
5.10.74

at which the shares of the shareholder who granted the proxy are registered a notice of revocation in writing under the hand of the grantor specifically stating the name of the person in whose favour the instrument was originally granted. In the case of an instrument of proxy granted in favour of two grantees in the alternative, it shall not be necessary to mention in a notice or revocation the name of the second or alternative grantee provided that the notice is otherwise sufficient to identify beyond doubt the instrument of proxy which it is intended to revoke.

(vii) if two or more instruments of proxy in respect of the same shares shall be deposited and if on or before the latest time for deposit of proxies all but of one of such instruments of proxy shall not have been duly revoked in accordance with the procedure prescribed in sub-para (vi) above all such instruments of proxy shall be deemed invalid.

(viii) The due revocation of an intrument of proxy shall in no way prohibit the deposit of another valid instrument of proxy within the time limited by sub-para (iv) above.

(ix) Notwithstanding anything to the contrary in these bye- laws, the grantor of an instrument of proxy which has become irrevocable under this bye-law shall not be entitled to vote in person at the meeting to which such instrument relates.

(q) A shareholder attending any meeting convened under this bye-law shall, for purposes of identification and to determine his voting rights, be required to sign and deliver to the Bank the form given hereunder:—

NATIONAL BANK OF PAKISTAN
General / Special
Meeting.

No _____ _____ 19

(1) Name (in Block Letters) _____

(2) Registered Address _____

(3) Registered Nos. of Shares _____

(4) Whether registerd before _____

(5) Register (Dacca, Karachi, Lahore) _____

Exhibit E annexed to Stipulation of Facts

(6) Votes in Person _____

(7) Votes by Proxy _____

*Certified that the Particulars _____ entered herein are correct.

Signature of Shareholder.

Secretary,

Local Board _____ Area.

(r) The decision of the Chairman of the meeting as to the qualification of any shareholder to vote, and in the case of a poll, as to the number of votes any shareholder is competent to exercise, shall be final.

(s) The President of the Central Board shall be the Chairman at all meetings at which he is present.

(t) If the President of the Central Board is absent from any meeting, a Chairman shall be elected by the shareholders present from amongst the Directors present at that meeting and in the event of no Director being present the shareholders present at that meeting shall elect one from amongst themselves to be the Chairman of the meeting.

(u) The Chairman shall regulate the procedure at all meetings and in particular shall have full power to decide the order in which shareholders can address the meeting, to fix a time limit for speech to apply the closer when in his opinion any matter has been sufficiently discussed and to adjourn the meeting.

(v) The proceedings at any meeting and all resolutions and decisions of such meeting shall be valid and binding on the Bank so far as such proceedings, resolutions and decisions are consistent with the provisions of the Ordinance.

31. (a) Local meetings shall be held at least once in every year at the Principal Offices of the Bank at Karachi, Lahore and Dacca. They shall be held on such dates as the Central Board may direct.

Local and special local meetings.

---

* (For use when the meeting is held in an area other than that in which the shareholder is registered).

DACCA.
5.10.24

(b) The provisions of the next preceding bye-law shall, so far as may be, and subject to the provisions of this bye-law, apply to local and special local meetings:

Provided that references in the said provisions to shareholders shall be deemed to be references to shareholders on the branch register concerned, and references to directors, the Managing Director or Deputy Managing Director and the official Gazette of Pakistan shall be deemed to be references, respectively, to Members, Secretaries and the Local Official Gazette.

Provided further that ten or more shareholders holding shares of the aggregate nominal value of fifty thousand rupees may convene a special local meeting and that the number of shareholders to constitute a quorum and to demand a poll in the case of any local meeting shall be respectively, twenty and five.

(c) The Chairman of the Local Board concerned shall be the Chairman at all meetings at which he is present.

(d) If the Chairman of the Local Board concerned is absent from any meeting, a Chairman shall be elected by the shareholders present from amongst the Members present at that meeting, and in the event of no Member being present the shareholders present at that meeting shall elect one from amongst themselves to be the Chairman of the meeting.

Powers exercisable by local and special local meetings.

32. (a) Local and special local meetings shall only be empowered to transact the business specifically so authorised by the Ordinance.

(b) The proceedings of any local or special local meeting and all resolutions and decisions of such meeting shall, subject to the provisions of this bye-law be valid and binding on the Bank.

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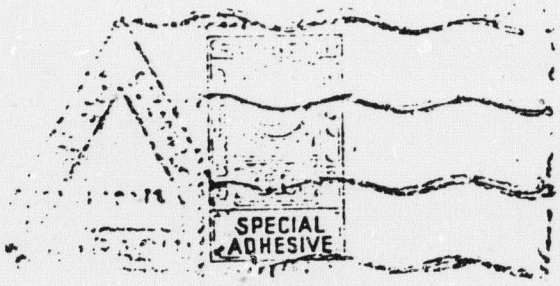
EXHIBIT F--NATIONAL BANK OF PAKISTAN DEED OF ASSIGNMENT, DATED OCTOBER 29, 1974, TO MUSLIM COMMERCIAL BANK ANNEXED TO STIPULATION OF FACTS

AS.H/= [illegible] 21-10-74

[illegible] 1974



DEED OF ASSIGNMENT

THIS Deed of Assignment made at Karachi this 29th day of October, 1974 BETWEEN National Bank of Pakistan, a banking company, incorporated under the National Bank of Pakistan Ordinance, 1949 having its Head Office at National Bank of Pakistan Building, I.I.Chundrigar Road, Karachi, (hereinafter referred to as "Assignor") AND The Muslim

contd.....2

Commercial Bank, Limited, a banking company incorporated under the Companies Act, 1913, having its registered office at Adamjee House, I.I. Chundrigar Road, Karachi (hereinafter referred to as the "Assignee".)

WHEREAS on or about 10th day of November, 1971, M/s. Adamjee Jute Mills Ltd., shipped 4200 bales of jute (hereinafter referred to as "the said goods") per the Waterman Steamship Company's M.V. Mobilian from Chalna under Bills of Lading Nos. 501 and 502 made out to the order of the assignee;

contd.....3

AND WHEREAS M/s. Golodetz & Co., and/or its agents have taken delivery of the said goods without payment of the invoice therefor in the sum of £.Stg216778.80;

AND WHEREAS the Assignee has commenced an action in the United States Court for the Southern District of New York (hereinafter referred to as the "Court") entitled, The Muslim Commercial Bank Limited against M. Golodetz & Company, Waterman Steamship Corporation and John Doe Corporation, 72 Civ. 5309, for recovery of the agreed purchase price of the said goods, £.Stg216778.80;

AND WHEREAS Pubali Bank, Rupali Bank and Sonali Bank, banking companies organized under the laws of the Peoples Republic of Bangladesh, and Adamjee Jute Mills, Ltd., have commenced an action in the same Court entitled, Pubali Bank, Rupali Bank, Sonali Bank and Adamjee Jute Mills, Ltd. against M. Golodetz & Company and Waterman Steamship Corporation, 73 Civ. 566, for recovery of the agreed purchase price of the said goods;

AND WHEREAS the two actions referred to in the preceding clauses have been consolidated by order of the Court, dated April 4, 1973;

AND WHEREAS certain documents have been produced by the plaintiffs in 73 Civ. 566 showing that the afore-said bills of lading were endorsed to the Assignors;

contd.....4

AND WHEREAS the Assignors have agreed to assign and transfer to the Assignee all and whatsoever their right, title and interest to and in the aforesaid bills of lading and all other documents relating to the said goods and to or in the proceeds thereof.

NOW, therefore, this Deed of Assignment witnesseth as follows:

1. The Assignor hereby assigns and transfers to the Assignee all and whatsoever right, title and interest to or in the Bills of Lading Nos. 501 and 502 in respect to the aforesaid goods shipped by M/s. Adamjee Jute Mills, Ltd., and to any proceeds whatsoever of the said bills of lading and of the bills of exchange, invoices and any other documents whatsoever relating to the said goods TO HOLD the same unto the Assignee absolutely.

2. The Assignor hereby agrees and declares that payment of the aforesaid proceeds or any part thereof under an order of the Court or agreement among the parties to the consolidated actions shall constitute a full and complete discharge and that the Assignor shall have no claim thereafter with respect to any proceeds of the bills of lading, the bills of exchange, invoices or any other documents relating to the said goods.

contd.....5

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals the day, the month and the year first above written.

For National Bank of Pakistan

(Affan Ahmad)
Chief Manager

ASSIGNOR

For Muslim Commercial Bank Ltd.

(M.A. Wasay)
Senior Executive Vice President

ASSIGNEE

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EXHIBIT G--BILL OF LADING NO. 501 ANNEXED TO STIPULATION OF FACTS

WATERMAN STEAMSHIP CORPORATION

GENERAL OFFICES: 140 BROADWAY, NEW YORK, N. Y.

(SPACES IMMEDIATELY BELOW ARE FOR SHIPPERS MEMORANDA — NOT PART OF BILL OF LADING)

DELIVERING CARRIER TO STEAMER | CAR NUMBER-REFERENCE

FORWARDING AGENT - REFERENCES | EXPORT DEC. NO.

BILL OF LADING

SPECIAL ADHESIVE

SHIPPER MESSRS ADAMJEE JUTE MILLS LIMITED.

CONSIGNED TO ORDER OF THE MUSLIM COMMERCIAL BANK LIMITED, DACCA

ADDRESS ARRIVAL NOTICE TO: M/S. CONSEJO ESTATAL DEL AZUCAR SANTO, DOMINGO DOMINICAN REPUBLIC.

ALSO NOTIFY

VESSEL: M.V. MOBILIAN | VOYAGE NO. | FLAG | PIER DC754055 | PORT OF LOADING: CHALNA

FOREIGN PORT OF DISCHARGE (Where goods are to be delivered to consignee or on-carrier): BARAHONA R.D.

FOR TRANSSHIPMENT TO (If goods are to be transhipped, state port to which boarded at port of discharge): DC754056

PARTICULARS FURNISHED BY SHIPPER

MARKS AND NUMBERS	NO. OF PKGS.	DESCRIPTION OF PACKAGES AND GOODS	MEASUREMENT	GROSS WEIGHT
MADE IN PAKISTAN CEA,OP -56 BARAHONA, R D HEAVYCERS 44"x28" HD 400 PCS ADAMJEE 3501/5000	1500	(ONE THOUSAND FIVE HUNDRED) I/B BALES HEAVY CERS ONLY. (Jute Sacking)	42319'-3"	
		S.I. NO. B-3758 B.FORM NO.EBA/AJM-42 C.H.PASS NO.2676 G.R.P.1.FORM NO.917539	Gross: 1540939 Lbs. Nett: 1514539 Lbs. Gross: 699980 Kilos Nett: 688180 Kilos	
		M. TONS: 846-19-3 @ $. 48.00 PER TON OF 50 CFT.....$.	40626.48	
		PLUS ARRIMO SURCHARGE @ $. 6.00 PER 1000 KILOS ON 702541 KILOS.....$.	4215.25	
			$. 44841.73	
		CONSIGNEE: M/S. CONSEJO ESTATAL DEL AZUCAR, SANTO DOMINGO DOMINICAN REPUBLIC. FREIGHT PAYABLE AT DESTINATION BY M/S. M. GOLDETZ & COMPANY 666 FIFTH AVENUE, NEW YORK, N.Y. 10019		

For G. W. & Co. Ltd.

Freight payable at port of discharge of ocean vessel; ship and/or cargo lost or not lost"

LBS. @	PER 2000 LBS. $	
LBS. @	PER 2240 LBS. $	
LBS. @	PER 100 LBS. $	
CU. FT. @	PER 40 CU. FT. $	
CU. FT. @	PER CU. FT. $	
	$	
	$	
	$	
TOTAL	$	

In Witness Whereof, the Master of the said ship has affirmed to THREE bills of lading, all of this tenor and date, ONE of which being accomplished, the others to stand void.

Dated 10TH NOVEMBER '71 at CHALNA

FOR THE MASTER

By Waterman Steamship Corporation,

For GLADSTONE WYLLIE & CO LTD.

By

As Agents,

Waterman Steamship Corporation.

B/L No.

Exhibit G annexed to Stipulation of Facts

WATERMAN STEAMSHIP CORPORATION

GENERAL OFFICES
140 Broadway
New York, N. Y.

U. S. AGENTS

PHILADELPHIA, PENNSYLVANIA ..... J. A. McCARTHY, INC.
5th and Chestnut Streets

BALTIMORE, MARYLAND ..... THE COTTMAN COMPANY
300 Water Street

NORFOLK, VIRGINIA ..HAMPTON ROADS STEAMSHIP AGENCY, INC.
Citizens Bank Building

TAMPA, FLORIDA ..... GULF FLORIDA TERMINAL CO.
13th and York Streets

MOBILE, ALABAMA ..... WATERMAN STEAMSHIP CORPORATION
61 St. Joseph Street

NEW ORLEANS, LOUISIANA ..WATERMAN STEAMSHIP CORPORATION
709, Richards Building

HOUSTON, TEXAS ..... WILKINS SHIPPING COMPANY
706 Cotton Exchange Building

SAN PEDRO, CAL. ..... WATERMAN CORPORATION OF CALIFORNIA
510 Pacific Trade Centre

SAN FRANCISCO, CAL. ..... WATERMAN CORPORATION OF CALIFORNIA
210 Sansome Street

GENERAL AGENTS

FAR EAST

EVERETT STEAMSHIP CORP., S. A. ..... YOKOHAMA, JAPAN
P. O. Box 300

INDIA

EVERETT STEAMSHIP CORP., S. A. ..... BOMBAY, INDIA
P. O. Box 523

PAKISTAN

UNITED LINER AGENCIES OF PAKISTAN .. KARACHI, W. PAKISTAN
P. O. Box 4745

GLADSTONE WYLLIE & CO., LTD. ..... CHITTAGONG
P. O. Box 14

GLADSTONE WYLLIE & CO., LTD. ..... KHULNA
Park Mansion

RED SEA

GELLATLY, HANKEY & CO. (SUDAN) LTD. ..... SUDAN
P. O. Box 215

MEDITERRANEAN

MR. T. C. L[illegible] ..... SPAIN
Marques de Riera 2

GREECE

GEO[illegible] ..... PIRAEUS, GREECE
[illegible]os Street

SARK[illegible] ..... ISTANBUL
No.

ANTWERP ..... S.A.
Kaiserstr. (Zone 1)

BREMEN ..... (BREMEN) G.M.B.H.

ROTTERDAM ..... N.V.,
P. O. Box 1205

PAY TO THE ORDER OF

VALUE FOR COLLECTION

LONDON

MANAGER

SHORT FORM BILL OF LADING

RECEIVED the goods, or packages said to contain goods herein mentioned, in apparent good order and condition unless otherwise indicated, to be transported and delivered or transhipped as herein provided.

This Short Form Bill of Lading is issued for the shipper's convenience and at its request, instead of the carrier's regular form Bill of Lading applicable to the routes or trades covering the service herein described. It shall have effect subject to the provisions of the U. S. Carriage of Goods by Sea Act, 1936, or of the Carriage of Goods by Sea or similar Act in force in the locality where this Bill of Lading is issued.

All the terms of the carrier's regular form of Bill of Lading applicable to the routes or services covered hereby and which are on file with the Federal Maritime Commission including all clauses presently being stamped or endorsed thereon, are incorporated herein with like force and effect as if they were written at length herein. A copy of such applicable Bill of Lading may be obtained from the carrier, its agents or the master.

All agreements or freight engagements for shipments of goods are superseded by this Bill of Lading and all its terms, whether written, typewritten, stamped or printed, or incorporated by reference, are agreed by the shipper to be binding and to govern the relations, whatever they may be, between the parties including in the words "shipper" and "carrier" as defined in the carrier's applicable regular form of Bill of Lading. One signed Bill of Lading duly endorsed, must be surrendered, if requested, to the agent of the vessel at port of discharge exchange for delivery order.

(CONTINUED ON OVER PAGE)

ENDORSEMENTS:

INTERNATIONAL OPERATIONS INWARD COLLECTION
74857
INTERNATIONAL OPERATIONS INWARD COLLECTION
74856

EXHIBIT H--BILL OF LADING NO. 502 ANNEXED TO STIPULATION OF FACTS

WATERMAN STEAMSHIP CORPORATION

GENERAL OFFICES: 140 BROADWAY, NEW YORK, N. Y.

(SPACES IMMEDIATELY BELOW ARE FOR SHIPPERS MEMORANDA — NOT PART OF BILL OF LADING)

DELIVERING CARRIER TO STEAMER

CAR NUMBER-REFERENCE

FORWARDING AGENT-REFERENCES

EXPORT DEC. NO.

BILL OF LADING

SPECIAL ADHESIVE

SHIPPER MESSRS ADAMJEE JUTE MILLS LIMITED

CONSIGNED TO ORDER OF THE MUSLIM COMMERCIAL BANK LIMITED, DACCA.

ADDRESS ARRIVAL NOTICE TO
M/S. CONSEJO ESTATAL DEL AZUCAR SANTO, DOMINGO DOMINICAN REPUBLIC.

ALSO NOTIFY

VESSEL: M.V. MORITAN | VOYAGE NO. | FLAG | PIER | PORT OF LOADING: CHITTAGONG

FOR PORT OF DISCHARGE (Where goods are to be delivered to consignee or on-carrier): SAN PEDRO DE MACORIS R.D.

FOR TRANSSHIPMENT TO (If goods are to be transshipped or forwarded at port of discharge)

PARTICULARS FURNISHED BY SHIPPER

MARKS AND NUMBERS	NO. OF PKGS.	DESCRIPTION OF PACKAGES AND GOODS	MEASUREMENT	GROSS WEIGHT
MADE IN PAKISTAN CEL. 0-56 SAN PEDRO DE MAKORIS R.D. HEAVYCBS 44"x28ID 400 PCS ADAMJEE EX. $ 1/3500	2700	(TWO THOUSAND SEVEN HUNDRED) I/B BALES HEAVY CBES ONLY S.I. NO. B-3740 B.FORM NO.EBA/AJM-41 C.H.PASS NO.2675 G.R.P.1 FORM NO.917538 M. TONS: 1482-5-5 @ $. 48.00 PER TON OF 50 CFT.....$ PLUS AHRMO SURCHARGE @ $. 6.00 PER 1000 KILOS ON 1266077 KILOS.....$ CONSIGNEE: M/S. CONSEJO ESTATAL DEL AZUCAR, SANTO DOMINGO DOMINICAN REPUBLIC FREIGHT PAYABLE AT DESTINATION H. JOHN OETZ & COMPANY 666 FIFTH AVENUE NEW YORK, N.Y. 10019	Gross:- 2967327 Lbs. Nett:- 2926827 Lbs. Gross:- 1255743 Kilos Nett:- 1245946 Kilos 71141.20 7596.46 $ 78737.66	

"Freight payable at destination of ocean vessel, cargo lost or not lost"

LBS. @	PER 2000 LBS. $	
LBS. @	PER 2240 LBS. $	
LBS. @	PER 100 LB. . $	
CU. FT. @	PER 40 CU. FT. $	
CU. FT. @	PER CU. FT. . $	
	$	
	$	
	$	
	TOTAL . . $	

In Witness Whereof, the Master of the said ship has affirmed to THREE bills of lading, all of this tenor and date, ONE of which being accomplished, the others to stand void.

Dated 1st March 1971 at CHITTAGONG

FOR THE MASTER

By Waterman Steamship Corporation,

For GLADSTONE WYLLIE & CO. LTD.

By

As Agents, Waterman Steamship Corporation.

B/L No. 502

FORM 390 REV.-2-67

A 158

Exhibit H annexed to Stipulation of Facts

WATERMAN STEAMSHIP CORPORATION

GENERAL OFFICES
140 Broadway
New York, N. Y.

U. S. AGENTS

ADELPHIA, PENNSYLVANIA ..... J. A. McCARTHY, INC.
5th and Chestnut Street

IMORE, MARYLAND ..... THE COTTMAN COMPANY
300 Water Street

OLK, VIRGINIA..HAMPTON ROADS STEAMSHIP AGENCY, INC.
Citizens Bank Building

PA, FLORIDA ..... GULF FLORIDA TERMINAL CO.
13th and York Streets

LE, ALABAMA ..... WATERMAN STEAMSHIP CORPORATION
61 St. Joseph Street

ORLEANS, LOUISIANA..WATERMAN STEAMSHIP CORPORATION
708, Richards Building

STON, TEXAS ..... WILKINS SHIPPING COMPANY
706 Cotton Exchange Building

PEDRO, CAL. .... WATERMAN CORPORATION OF CALIFORNIA
510 Pacific Trade Centre

FRANCISCO, CAL....WATERMAN CORPORATION OF CALIFORNIA
310 Sansome Street

GENERAL AGENTS

FAR EAST

EVERETT STEAMSHIP CORP., S. A. ..... YOKOHAMA, JAPAN
P. O. Box 300

INDIA

EVERETT STEAMSHIP CORP., S. A. ..... BOMBAY, INDIA
P. O. Box 523

PAKISTAN

UNITED LINER AGENCIES OF PAKISTAN .. KARACHI, W. PAKISTAN
P. O. Box 4745

GLADSTONE WYLLIE & CO., LTD. ..... CHITTAGONG
P. O. Box 14

GLADSTONE WYLLIE & CO., LTD. ..... KHULNA
Park Mansion

RED SEA

GELLATLY, HANKEY & CO. (SUDAN) LTD. ..... KHARTOUM, SUDAN
P. O. Box 2,5

MEDITERRANEAN

MR. T. C. LARSEN ..... MADRID, SPAIN
Apartado 14472, Marques de Casa Riera 4

GREECE

GEORGE A. CALLITSIS, SUCCSR. ..... PIRAEUS, GREECE
Yanoulatos Bldg., 6, Antiggos Street

TURKEY

SARK EXPRESS SHIPPING AGENCY CO., LTD. ..... ISTANBUL
Meclisi Mebusan Caddesi No.

EUROPE

ANTWERP...MESSRS. GELLATLY, HANKEY & CO. (BELGIUM) S.A.
14, Keiserstraat (Zone 1)

BREMEN.....WATERMAN LINIEN (BREMEN) G.M.B.H.,
P. O. Box 1836

ROTTERDAM.....WATERMAN LIJNEN (ROTTERDAM) N.V.,
P. O. Box 1205

AY TO THE ORDER OF

ALUE FOR COLLECTION

TON, WASHINGTON...WATERMAN CORPORATION OF CALIFORNIA

SHORT FORM BILL OF LADING

SHIPPER

RECEIVED the goods, or packages said to contain goods herein mentioned, in apparent good order and condition unless otherwise noted, to be transported and delivered or transhipped as herein provided

This Short Form Bill of Lading is issued for the shipper's convenience and at its request, instead of the carrier's regular form Bill of Lading applicable to the routes or trades covering the service herein described. It shall have effect subject to the provisions of the U. S. Carriage of Goods by Sea Act, 1936, or of the Carriage of Goods by Sea or similar Act in force in the locality where this Bill of Lading is issued.

All the terms of the carrier's regular form of Bill of Lading applicable to the routes or services covered hereby and which are on file with the Federal Maritime Commission including all clauses presently being stamped or endorsed thereon, are incorporated herein with the force and effect as if they were written at length herein. A copy of such applicable Bill of Lading may be obtained from the carrier, its agents or the master.

All agreements or freight engagements for shipment of goods are superseded by this Bill of Lading and all its terms, whether written, signed, stamped or printed, or incorporated by reference are agreed by the shipper to be binding and to govern the relations, whatever they may be, between those included in the terms "shipper" and "carrier" as defined in the carrier's applicable regular form of Bill of Lading. One signed Bill of Lading duly endorsed will be surrendered, if requested, to the agent of the vessel at port of discharge in exchange for delivery order.

(CONTINUED ON OPPOSITE PAGE)

ENDORSEMENTS:

Delivery to National Bank of Pakistan

Eastern Mercantile Bank Baghdad

Clearing Confirmed
National Bank of Pakistan

Mrs. Hobbs Bank Ltd.

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EXHIBIT I--PROCLAMATION OF INDEPENDENCE OF BANGLADESH ANNEXED TO STIPULATION OF FACTS

Registered No. DA-1.

The Bangladesh Gazette

Extraordinary

Published by Authority

TUESDAY, MAY 23, 1972

PART I—Orders and Notifications by the Government of the People's Republic of Bangladesh, the High Court, Government Treasury, etc.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 429-Pub.—23rd May, 1972—The Proclamation of Independence and the Laws Continuance Enforcement Order as were proclaimed and issued in Mujibnagar on the 10th day of April, 1971, are hereby published for general information:--

THE PROCLAMATION OF INDEPENDENCE

MUJIBNAGAR, BANGLADESH

Dated 10th day of April, 1971.

WHEREAS free elections were held in Bangladesh from 7th December, 1970 to 17th January, 1971, to elect representatives for the purpose of framing a Constitution,

AND

WHEREAS at these elections the people of Bangladesh elected 167 out of 169 representatives belonging to the Awami League,

AND

WHEREAS General Yahya Khan summoned the elected representatives of the people to meet on the 3rd March, 1971, for the purpose of framing a Constitution,

AND

WHEREAS the Assembly so summoned was arbitrarily and illegally postponed for an indefinite period,

AND

WHEREAS instead of fulfilling their promise and while still conferring with the representatives of the people of Bangladesh, Pakistan authorities declared an unjust and treacherous war,

AND

WHEREAS in the facts and circumstances of such treacherous conduct Banga Bandhu Sheikh Mujibur Rahman, the undisputed leader of 75 million of people of Bangladesh, in due fulfilment of the legitimate right of self-determination of the people of Bangladesh, duly made a declaration of independence at Dacca on March 26, 1971, and urged the people of Bangladesh to defend the honour and integrity of Bangladesh,

AND

WHEREAS in the conduct of a ruthless and savage war the Pakistani authorities committed and are still continuously committing numerous acts of genocide and unprecedented tortures, amongst others on the civilian and unarmed people of Bangladesh,

AND

WHEREAS the Pakistan Government by levying an unjust war and committing genocide and by other repressive measures made it impossible for the elected representatives of the people of Bangladesh to meet and frame a Constitution, and give to themselves a Government,

AND

WHEREAS the people of Bangladesh by their heroism, bravery and revolutionary fervour have established effective control over the territories of Bangladesh,

We the elected representatives of the people of Bangladesh, as honour bound by the mandate given to us by the people of Bangladesh whose will is supreme duly constituted ourselves into a Constituent Assembly, and

having held mutual consultations, and

in order to ensure for the people of Bangladesh equality, human dignity and social justice,

declare and constitute Bangladesh to be a sovereign People's Republic and thereby confirm the declaration of independence already made by Banga Bandhu Sheikh Mujibur Rahman, and

do hereby affirm and resolve that till such time as a Constitution is framed, Banga Bandhu Sheikh Mujibur Rahman shall be the President of the Republic and that Syed Nazrul Islam shall be the Vice-President of the Republic, and

that the President shall be the Supreme Commander of all the Armed Forces of the Republic,

shall exercise all the Executive and Legislative powers of the Republic including the power to grant pardon,

shall have the power to appoint a Prime Minister and such other Ministers as he considers necessary,

shall have the power to levy taxes and expend monies,

shall have the power to summon and adjourn the Constituent Assembly, and

do all other things that may be necessary to give to the people of Bangladesh an orderly and just Government.

We the elected representatives of the people of Bangladesh do further resolve that in the event of there being no President or the President being unable to enter upon his office or being unable to exercise his powers due to any reason whatsoever, the Vice-President shall have and exercise all the powers, duties and responsibilities herein conferred on the President,

We further resolve that we undertake to observe and give effect to all duties and obligations that devolve upon us as a member of the family of nations and to abide by the Charter of the United Nations.

We further resolve that this Proclamation of Independence shall be deemed to have come into effect from 26th day of March, 1971.

We further resolve that in order to give effect to this instrument we appoint Prof. Yusuf Ali our duly Constituted potentiary and to give to the President and the Vice-President oaths of office.

PROF. YUSUF ALI

Duly Constituted Potentiary
By and under the authority of the
Constituent Assembly of
Bangladesh.

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EXHIBIT J--BANGLADESH (ADMINISTRATION OF BANKS) ORDER, 1971 ANNEXED TO STIPULATION OF FACTS

Registered No. DA-1.

The Bangladesh Gazette

Extraordinary

Published by Authority

WEDNESDAY, DECEMBER 29, 1971

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 587-Pub.—29th December, 1971—The following Order made by the Acting President on the 25th December, 1971, is hereby published for general information:—

GOVERNMENT OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Acting President's Order No. 3 of 1971.

THE BANGLADESH (ADMINISTRATION OF BANKS) ORDER, 1971.

Whereas it is expedient to make provisions for the administration of Banks with head offices in Pakistan, formerly known as West Pakistan.

Now, therefore, in pursuance of the Proclamation of Independence of Bangladesh and in exercise of all powers enabling him in that behalf, the Acting President is pleased to make the following order :—

1. (*1*) This Order may be called the Bangladesh (Administration of Banks) Order, 1971.

(*2*) It shall come into force at once.

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Exhibit J annexed to Stipulation of Facts

2. (*1*) Where any Bank having offices and branches in Bangladesh has its head office in Pakistan, formerly known as West Pakistan, the Government of Bangladesh may, notwithstanding anything contained in any law for the time being in force or in any instrument or document relating to the incorporation or registration of the Bank, by notification in the official Gazette, appoint an Administrator for the management and control of the affairs of the Bank in Bangladesh.

(*2*) Where an Administrator is appointed for any Bank under clause (*1*), the Board of Directors of the Bank shall cease to function in respect of the Bank in Bangladesh and all the powers and duties of the Board of Directors or, as the case may be, Local Board of the Bank of Bangladesh shall vest in the Administrator.

(*3*) The Administrator shall hold office for such period and on such terms and conditions as the Government of Bangladesh may specify.

(*4*) In addition to the powers and duties of the Board of Directors, an Administrator shall also have the powers and duties of the Chief Executive of the Bank in Bangladesh and shall be wholly responsible for the management of its affairs in Bangladesh.

3. An Administrator shall exercise his powers and discharge his duties under the direct supervision and control of the Government of Bangladesh and shall submit to the Government of Bangladesh such statements and furnish such information as the Government of Bangladesh may direct or require from time to time.

4. This Order shall also apply to a Bank in Bangladesh which is a subsidiary to a Bank mentioned in clause (*1*) of article 2.

5. No action taken under this Order shall be called in question by or before any Court.

SYED NAZRUL ISLAM
Acting President.

DACCA,
The 29th December, 1971.

AZIMUDDIN AHMAD
Secretary-in-Charge.

Printed and Published by A. K. M. Kamaruddin, Officer on Special Duty, Ministry of Establishment Division, In-charge, Bangladesh Government Press, Dacca.

EXHIBIT K--BANGLADESH ABANDONED PROPERTY (CONTROL, MANAGEMENT AND DISPOSAL) ORDER, 1972 ANNEXED TO STIPULATION OF FACTS

Dacca, February 28, 1972.

HANDOUT

The President of the People's Republic of Bangladesh has made the following order :-

PRESIDENT'S ORDER No: 16 of 1972.

THE BANGLADESH ABANDONED PROPERTY (CONTROL, MANAGEMENT AND DISPOSAL) ORDER, 1972

WHEREAS it is expedient to make provisions for the control, management and disposal of certain property abandoned by certain persons who are not present in Bangladesh or whose whereabouts are not known or who have ceased to occupy or supervise or manage in person their property, or who are enemy aliens:

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, 1971 read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,

(1) "abandoned property" means any property owned by any person who is not present in Bangladesh or whose whereabouts are not known or who has ceased to occupy supervise or manage in person his property, including -

(i) any property owned by any person who is a citizen of a State which at any time after the 25th day of March, 1971, was at war with or engaged in military operations against the People's Republic of Bangladesh;

(ii) any property taken over under the Bangladesh (Taking over of

Exhibit K annexed to Stipulation of Facts

Control and Management of Industrial and Commercial Concerns) Order, 1972 (Acting President's Order No: 1 of 1972), but does not include -

(a) any property the owner of which is residing outside Bangladesh for any purpose which, in the opinion of the Government, is not prejudicial to the interest of Bangladesh;

(b) any property which is in the possession or under the control of the Government under any law for the time being in force.

Explanation: "Person who is not present in Bangladesh" includes any [illegible] of persons or company constituted or incorporated in the territory or under the laws of a State which at any time after the 25th day of March, 1971, was at war with or engaged in military operations against the People's Republic of Bangladesh;

(2) "Company" includes a banking company and insurance company;

(3) "Government" means the Government of the People's Republic of Bangladesh

(4) "prescribed" means prescribed by any rule, order or direction made or given in pursuance of any of the provisions of this Order;

(5) "property" means property of any kind, movable or immovable and include any right or interest in such property and any debt or actionable claim, any security or negotiable instrument, any right under a contract and any industrial or commercial undertaking.

Explanation: "Security" includes share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of any body corporate and Government security.

3. The provisions of this Order and any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. On the commencement of this Order, all abandoned properties in Bangladesh

shall vest in the Government and shall be administered, controlled, managed and disposed of, by transfer or otherwise, in accordance with the provisions of this Order.

5. (1) For the purpose of carrying the provisions of this Order into effect, and in particular for the purpose of securing, administration, control, management and disposal, by transfer or otherwise, of abandoned property, the Government may take such measures as it considers necessary or expedient and do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the foregoing provisions, the Government may, for the said purposes, -

(a) constitute one or more Boards for such area or areas or for such abandoned property or such class or classes of abandoned properties and in such manner as may be prescribed;

(b) appoint an administrator for any abandoned property on such terms and conditions as may be prescribed;

(c) carry on the business in respect of any abandoned property;

(d) take action for recovering any money in respect of any abandoned property;

(e) make any contract and execute any document in respect of any abandoned property;

(f) institute, defend or continue any suit or other legal proceeding, refer any dispute to arbitration and compromise any debts, claims or liabilities arising out of or in connection with any abandoned property;

(g) raise on the security of any abandoned property such loans as may be necessary;

(h) pay taxes, duties, cesses and rates to the Government or to any local authority in respect of abandoned property; and

(i) transfer by way of sale, mortgage or lease, or otherwise dispose of, any abandoned property of any easement, interest, profit or right, present or future, arising therefrom or incidental thereto.

6. No person shall, except in accordance with the provisions of this Order or any rules made thereunder, transfer any abandoned property in any manner or create any charge or encumbrance on such property, and any transfer made or charge or encumbrance created in contravention of this Order shall be null and void.

7. (1) Where any abandoned property is not in possession of any person, the Deputy Commissioner or the Sub-Divisional Magistrate shall take possession of the property in such manner as may be prescribed.

(2) Where any abandoned property is in possession of any person, such person shall, within seven days of the commencement of this Order, surrender such property to the Deputy Commissioner or the Sub-Divisional Magistrate.

(3) Where the person in possession of any abandoned property fails to surrender such property as he is required to do under clause (2), the Deputy Commissioner or the Sub-Divisional Magistrate shall serve a notice on him in the prescribed manner requiring him to surrender possession of the property, within seven days of the service of the notice, to the person mentioned in the notice or to show cause against such surrender within the said period and, if he fails to do so, the Deputy Commissioner or the Sub-Divisional Magistrate shall take possession of the property in such manner as may be prescribed.

(4) Where the person on whom a notice is served under clause (3) shows cause, within the period specified in that clause, against the surrender of the abandoned property, the Deputy Commissioner or the Sub-Divisional Magistrate, as the case may be, shall, after making such local enquiry as he may consider necessary and after giving the person an opportunity of being heard, pass such order as he deems fit.

8. (1) Where any abandoned property consists of shares in any company, -

(a) the Government shall be deemed to be the registered holder of such shares and, notwithstanding anything in the memorandum or articles

of association of the company or in any agreement or instrument, shall have the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provision of the Companies Act, 1913 (Act VII of 1913) or under any other law or under the articles of association or in any other matter as the person whose shares have vested in the Government had immediately before such vesting; and

(b) the Government shall have the power to acquire, at its option, all or any portion of the remaining shares in such company in the prescribed manner on such terms as it deems fit.

(2) Where under clause (1) the Government becomes the holder of more than fifty percent of the total number of shares in the company, the Government may, by order in writing, -

(a) dissolve the Board of Directors of the Company;

(b) remove its Managing Director or any other Director;

(c) dissolve its Managing Committee, Executive Committee, Advisory Committee or any other Committee or Board;

(d) remove its General Manager or other Manager;

(e) terminate any Managing Agency Agreement;

(f) remove any of its officers or employees;

(g) constitute any Board or Committee or appoint any person for its administration and management, and

(h) give such directions in respect of its administration and management as it may deem fit.

(3) Notwithstanding anything contained in the memorandum or articles of association of a company, the Government may, in respect of a company mentioned in clause (2), by notification in the official Gazette, do all such things which, but for the power conferred by this clause, would have required the passing of a special or extraordinary resolution by the share-holders.

Exhibit K annexed to Stipulation of Facts

9. When any property is vested in the Government under this Order, only such liabilities in respect of such property shall be deemed to be the liabilities in respect of the property as may be determined by such authority as in such manner as may be prescribed.

10. (1) The Government may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any abandoned property is held, occupied or managed by a person, where such allotment, lease or agreement has been granted or entered into after the 25th day of March, 1971.

(2) Where by reason of any action taken under clause (1) any person has ceased to be entitled to possession of any abandoned property he shall, on demand by the Government, surrender possession of such property to the Government or to any person authorised by it in this behalf.

(3) If any person fails to surrender possession of any property under clause (2), the Government may eject such person and take possession of such property in such manner as may be prescribed.

11. (1) Any amount payable in respect of any abandoned property shall be paid to the Government by the person liable to pay the same.

(2) Any person who makes a payment under clause (1) shall be discharged from further liability to pay to the extent of the payment made.

(3) Any payment made otherwise than in accordance with clause (1) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Government to enforce such obligation against any such person.

12. Where any abandoned property is property in trust for a public purpose of a religious or charitable nature or is a waqf, the property shall remain vested in the Government only until such time as fresh trustees or mutwallis are appointed by Government, and pending the appointment of fresh trustees or mutwallis the property and the income thereof shall be applied by the Government for fulfilling, as far as possible, a charitable purpose.

Exhibit K annexed to Stipulation of Facts

13. (1) Where any abandoned property consists of shares in a joint property, business or firm, and if the shares vested in the Government constitute the greater part of such joint property, business or firm, reckoned according to the value of the whole, the Government may take possession and assume control and management of the whole of such property, business or firm.

(2) Notwithstanding the provision of clause (1), the Government shall, on an application being made in this behalf by all or any of the persons whose shares have not vested in the Government, partition such property, if capable of being partitioned, and determine the share or shares of such person or persons.

14. (1) Any property vested in the Government under this Order shall be exempt from all legal process, including seizure, distress, ejectment, attachment or sale by any officer of a Court or any other authority, and no injunction or other order of whatever kind in respect of such property shall be granted or made by any Court or any other authority, and the Government shall not be divested or dispossessed of such property by operation of any law for the time being in force.

(2) Any such legal process as aforesaid subsisting immediately before the commencement of this Order shall cease to have effect on such commencement and all abandoned properties in custody of any Court, receiver, guardian or other person or persons appointed by it, shall, upon delivery of the same being called for by the Government, be delivered to the Government.

15. (1) Any person claiming any right or interest in any property treated by Government as abandoned property may make an application to the prescribed authority on the ground that -

(a) the property is not abandoned property; or

(b) his interest in the property has not been affected by the provisions of this Order.

(2) An application under clause (1) shall be made within three months of the date of the commencement of this Order.

(3) On receiving an application under clause (2), the authority to which the application is made shall hold a summary inquiry in the prescribed manner and,

after taking such evidence as may be produced, shall pass an order, stating the reasons therefor, rejecting the application or allowing it, wholly or in part, on such terms and conditions as it thinks fit to impose.

16. (1) Any person aggrieved by an order passed under Article 7 or Article 15 of this Order may, within one month of such order, file an appeal before such authority as may be prescribed.

(2) The Government may, either of its own motion or on application, at any time, revise any order passed under Article 7 or Article 15 or clause (1) of this Article.

17. (1) Any person who has been in unauthorised possession of any abandoned property shall be liable to pay such compensation for such unauthorised possession as may be assessed by such authority and in such manner as may be prescribed.

(2) Any person who has caused damage to or disposed of the whole or a part of any abandoned property shall be liable to pay such compensation as may be assessed by such authority and in such manner as may be prescribed.

18. (1) The Government shall maintain a separate account of each abandoned property in such manner as may be prescribed and shall cause to be made entries therein of all receipts and expenditures in respect thereof.

(2) The Government shall cause the accounts of the abandoned properties to be inspected and audited in the prescribed manner.

19. Without prejudice to the provisions of Article 17, any person who wilfully causes damage to, or disposes of the whole or a part of, any abandoned property or allow damage to be caused to, or disposal of the whole or a part of, any abandoned property shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

20. Any person who fails to surrender any abandoned property as required under clause (2) or clause (3) of Article 7 or Article 10 shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Exhibit K annexed to Stipulation of Facts

21. No provision of law relating to the winding up of companies or banks or business or dissolution of firms shall apply to any company, bank, business or firm vested in the Government as abandoned property under this Order, and such Company, bank, business or firm shall not be wound up or dissolved save by order of the Government and in such manner as it may direct.

22. The Government may, by order published in the official Gazette, direct that any power or duty which is conferred or imposed by this Order upon the Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate

23. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Order or the rules made thereunder.

24. Anything done, any action taken or any order passed under this Order shall not be called in question in any Court.

25. The Government may make rules for carrying out the purposes of this Order.

Sd/—
Abu Sayeed Chowdhury
President of the
People's Republic of Bangladesh

Dacca;
The 26th February, 1972.

AK/ALB/GM/
No:566-PID

Exhibit K annexed to Stipulation of Facts

The Bangladesh Gazette

Extraordinary
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FRIDAY, MARCH 10, 1972

PART 1 - Order and Notifications by the Government of the People's Republic of Bangladesh, the High Court, Government Treasury, etc.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAND REVENUE, LAND RECORDS AND SURVEYS

General Section
NOTIFICATION

No. 6E-20/72/247 - General - 9th March 1972 - In exercise of the power conferred by Article 25 of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972), the President is pleased to make the following rules, namely:-

THE BANGLADESH ABANDONED PROPERTY (TAKING OVER POSSESSION) RULES? 1972.

1. Short title - These rules may be called the Bangladesh Abandoned Property (Taking over Possession) Rules, 1972.

2. Definitions - In these rules, unless there is anything repugnant in the subject or context, —

(a) "ababdoned property" means any abandoned property within the meaning of the Order;

(b) "Article" means an Article of the Order;

(c) "Form" means a form appended to these rules;

(d) "the Order" means the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);

(e) "property" means any property within the meaning of the Order.

3. Manner of taking possession of abandoned property under Article 7 -

(1) Where any abandoned property is not in possession of any person or where a person surrenders any abandoned property under clause (2) of Article 7 or in pursuance of a notice under clause (3) or of an order under clause (4) of the said Article, the Deputy Commissioner or the Subdivisional Magistrate shall pass an order in Form No. 1 and depute an officer for taking possession of such property.

(2) The officer so deputed shall affix an authentic copy of such order on the notice board of the office of the local Union Panchayat/Sahar Committee/Paura Sabha and where the property consists of immovable property another copy to some conspicuous part of such property.

Exhibit K annexed to Stipulation of Facts

(3) The order may, if the Deputy Commissioner or subdivisional Magistrate dee fit, be proclaimed by beat of drum in the locality in which the property is situated.

(4) The officer deputed to take possession shall take such steps as he may consider necessary for securing possession of the property, including breaking open any lock or door, if necessary, and make an inventory in duplicate, containing the ful particulars of the property, including machineries installations, fixtures, fittings, stock-in-trade, furniture, equipments, cash, bullions, ornaments, books, documents, papers, house-hold effects, standing crops, trees and all other things found therein.

(5) The inventory so made shall be signed by the officer himslef and by two witnesses.

(6) On the completion of these formalities, the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Subdivisional Magistrate.

(7) The officer shall submit a report to the Deputy Commissioner or the Sub-divisional Magistrate about taking possession of the property in the aforesaid manner along with both copies of the inventory prepared by him.

(8) The notice referred to in clause (3) of Article [illegible] be in Form No. II and shall be served on the person in possession or on any adult [illegible] member of him family or, where none of them is available or they refuse to receive the notice, by affixing a copy of the notice to a conspicuous part of the residence of such person and also, where the abandoned property consists of any immovable property on a conspicuous part of such immovable property in the presence of two witnesses.

(9) Where the person in possession fails to surrender the abandoned property or to show cause in pursuance of the notice under clause (3) of Article 7 or where he shows cause, but fails to surrender the property in accordance with an order passed under clause (4) of that Article, the Deputy Commissioner or the Subdivisional Magistrate shall pass an order in Form III and depute an officer to take possession o the property, by taking all steps necessary in that behalf, including evicting such person and for such eviction, such force may be used as may be necessary.

(10) The officer so deputed shall also publish the order, enter upon the property and prepare an inventory in the same manner as prescribed in sub-rules (2), (3) and (4).

(11) After eviction and on completion of these formalities, the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Sub divisional Magistrate.

(12) The officer shall submit a report to the Deputy Commissioner or the Sub-divisional Magistrate about taking possession of the property in the aforesaid manner along with both copies of the inventory prepared by him.

4. Manner of taking possession of abandoned property under clause (3) of Article 10 -

(1) For taking possession of any abandoned property under clause (3) of Article 10, the Deputy Commissioner or the Subdivisional Magistrate, to whom the powe of Government has been delegated under Article 22, shall pass an order in Form No. IV

and depute an officer to take possession of the property who shall take all necessary steps in that behalf, including eviction of the person in possession and for such eviction, such force may be used as may be necessary.

(2) The officer so deputed shall publish the order, enter upon the property and prepare an inventory in the same manner as prescribed in sub-rules (2), (3) and (4) of rule 3.

(3) After eviction and on completion of those formalities the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Subdivisional Magistrate.

(4) The officer shall submit a report to the Deputy Commissioner or the Subdivisional Magistrate about taking possession of the property in the aforesaid manner, along with both copies of the inventory prepared by him.

5. Custody of abandoned property - The Deputy Commissioner or the Subdivisional Magistrate shall make proper arrangement for the safe custody and guarding of all abandoned property during the period from the time of taking its possession to the time of making it over to the Ministry concerned under Rule 6 .

6. Report and making over of an abandoned property to the Ministry concerned for control, management and disposal - (1) The Deputy Commissioner or the Subdivisional Magistrate shall submit a report to the Ministry concerned as mentioned below setting out the particulars of the property, possession of which has been taken over by the Deputy Commissioner or the Subdivisional Magistrate:-

Category of abandoned property	Name of Ministry to whom the property is to be made over.
1. Agricultural, horticultural and non-agricultural lands not connected with any commercial or industrial undertaking.	Ministry of Revenue
2. Residential and other buildings in the urban areas.	Ministry of Works
3. Shops, godowns and other commercial undertakings with or without stock in trade.	Ministry of Commerce.
4. Industrial undertakings (including Jute Industry).	Ministry of Industry.
5. Tea Gardens	Ministry of Commerce.
6. Trucks, buses and other means of transport	Ministry of Communication.

Exhibit K annexed to Stipulation of Facts

7.	Negotiable instruments and securities, i.e., shares, scrip, stocks, bonds, debentures, stocks or other marketable securities of a like nature in or of any body corporate and Government security.	Ministry of Commerce.
8.	Goods in transit or at port, railway stations and terminals.	Ministry of Communication.
9.	Cash, ornaments and bullion not connected with any commercial or indusctrial under-taking	Ministry of Finance.
10.	Any other property not covered by the above classifications	Ministry of Revenue.

(2) An abandoned property taken possession of by the Deputy Commissioner or the Subdivisional Magistrate under the Order, along with a copy of the inventory, shall be made over, under proper receipt, to the Ministry concerned in such manner as is directed by that Ministry for control, management and disposal according to the rule to be framed by such Ministry.

Form I

[See rule 3(1)]

ORDER

Where it appears that the property specified in the schedule below, owned by ....., of ....., P.S. .....distric ....., is an abandoned property within the meaning of the Bangla desh Abandoned Property (Control, Management and Disposal) Order, 1972(P.O. No. 16 of 1972), I hereby order that the possession of the said property shall be taken by (name and designation of the Officer deputed).

Schedule

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Seal.

Date ----------.

Exhibit K annexed to Stipulation of Facts

Form II

[See rule 3(8)]

NOTICE

Where it appears that the property specified in the Schedule below, owned by..... of ....., P.S. ..... district....., is an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);

And whereas you Mr.....of ..... P.S. ....., district..... are in possession of the said property;

You are hereby directed to surrender possession of the property to (name and designation of the officer) within seven days of the service of the notice or to show cause against such surrender within the said period.

Schedule.

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Seal.

Date .....

Exhibit K annexed to Stipulation of Facts

Form III

[See rule 3(9)]

ORDER

Whereas it appears that the property specified in the Schedule below, owned by..... of ....., P.S. ..... district....., is an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);

And whereas you Mr..... of ..... P.S. ....., district ..... are in possession of the said property and have failed to surrender that property or to show cause in pursuance of the notice under clause (3) of Article 7 served on you on..... in accordance with my order passed under clause (4) of Article 7 on.....

I hereby order that you shall be evicted from the said property and the possession of that property shall be taken by (named and designation of the officer deputed).

Schedule

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrat

Seal.

Date.....

Exhibit K annexed to Stipulation of Facts

Form 1.

[See rule 4(1)]

ORDER

Whereas you Mr....., of ..... P.S. ....., district..... have ceased to be entitled to the possession of the abandoned property specified in the Schedule below by reason of my order passed on ..... under clause (1) of Article 10 of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972) and have failed to surrender possession of the said property under clause (2) of the said Article on demand;

I hereby order that you shall be evicted from the daid property and the possession of the said property shall be taken by (name and designation of the officer deputed).

Schedule

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Seal.

Date.....

By order of the President,

M.A. TAHER
Secretary

PRETRIAL ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LIMITED, Plaintiff, -against- M. GOLODETZ & COMPANY, WATERMAN STEAMSHIP CORPORATION AND JOHN DOE CORPORATION, Defendants.	72 Civ. 5309 (LWP)
	PRETRIAL ORDER
PUBALI BANK, RUPALI BANK, SONALI BANK and ADAMJEE JUTE MILLS, LTD., Plaintiffs, -against- M. GOLODETZ & COMPANY and WATERMAN STEAMSHIP CORPORATION, Defendants.	73 Civ. 566 (LWP)

A. Description of Actions and Prior Proceedings

1. The basis of jurisdiction in each of these consolidated actions is diversity of citizenship. Plaintiffs in both cases are citizens of foreign states, and defendants in both cases are citizens and residents of New York. Defendants M. Golodetz & Company ("Golodetz") and Waterman Steamship Corporation ("Waterman") were served in each action; defendant John Doe Corporation (in 72 Civ. 5309) has not been served. These actions were consolidated by order of this Court entered on April 4, 1973.

2. The amount in controversy in each of the actions, exclusive of interest and costs, exceeds $10,000.

3. These actions involve claims against the same fund--the proceeds of the sale of jute by Adamjee Jute Mills, Ltd. ("Adamjee") to Golodetz in 1971 (the "Proceeds"). By order entered March 13, 1975, defendants Golodetz and Waterman were, upon the consent of all parties, discharged from liability upon Golodetz's deposit of the Proceeds ($521,568), plus accrued interest, in escrow pending the entry of the judgment of this Court.

4. The remaining controversy is solely between the plaintiffs in the two consolidated actions: Muslim Commercial Bank Limited ("Muslim Bank"), plaintiff in 72 Civ. 5309, and Pubali Bank, Rupali Bank, Sonali Bank and Adamjee (collectively, the "Bangladesh claimants"), plaintiffs in 73 Civ. 566. For convenience, the plaintiffs in the two consolidated actions are referred to collectively as the "parties".

B. Pretrial Conferences; Scheduling

5. The parties, by their attorneys, appeared before Magistrate Gerard L. Goettel (to whom this case was assigned for all pretrial purposes) at several pretrial conferences pursuant to Rule 16 of the Federal Rules of Civil Procedure and:

(a) Agreed that the pleadings would be deemed amended to eliminate John Doe Corporation as a defendant

in 72 Civ. 5309 and further amended in accordance with paragraph 11 of this pretrial order;

(b) Agreed that the trial of this action should be based upon this order and the pleadings as amended in accordance herewith, and that all other issues raised by the pleadings would be abandoned;

(c) Executed a stipulation of agreed facts, dated March 25, 1975 (the "Stipulation"), each party reserving for trial objections to the materiality and relevancy of the stipulated facts;

(d) For the purpose of possibly limiting the proof to be presented at trial, consented to brief and argue prior to trial the issues described in subparagraphs (c) and (j) of paragraph 11; and

(e) Requested that, after a decision on the issues described in subparagraph (d) above, the trial of the remaining issues be scheduled for a date certain and that counsel for the parties be given at least 45 days' prior notice of such date.

C. Contentions of Muslim Bank

6. (a) Muslim Bank contends that it is entitled to judgment because:

(i) It extended to Adamjee credit facilities which were secured by the jute which is the subject matter of this litigation (the "Jute") and received from Adamjee an assignment of the Jute and the Proceeds and took

delivery of Waterman Bills of Lading Nos. 501 and 502 consigning the Jute to the order of Muslim Bank (the "Bills of Lading"), copies of which are annexed to the Stipulation as Exhibits G and H;

(ii) Adamjee's debt under the credit facility with Muslim Bank has not been discharged; and

(iii) Muslim Bank has not assigned or transferred any of its right, title and interest to and in the Jute or the Proceeds.

(b) Alternatively, Muslim Bank contends that even if it did transfer an interest in the Jute and the Proceeds to NBP, by endorsement and delivery of the Bills of Lading, it is entitled to judgment because NBP conveyed its interest in the Jute and Proceeds to Muslim Bank by a deed of assignment, dated October 29, 1974 and annexed to the Stipulation as Exhibit F (the "Assignment").

(c) In response to the contentions of the Bangladesh claimants at paragraph 7, infra, Muslim Bank further contends that:

(i) Any purported transfer of the Jute or Proceeds by endorsement of the Bills of Lading by Abul Kalam purporting to act on behalf of Muslim was unauthorized and was ineffective because of the termination of his authority and the knowledge of such termination by NBP.

(ii) The Motijheel Branch of Muslim Bank and the Dacca Branch of NBP (collectively, the "Branches") were

not, prior to December 16, 1971, independent juristic entities but rather were parts of Muslim Bank and NBP, respectively (collectively the "Pakistani Banks"). The employees stationed at the Branches were agents of the Pakistani Banks and, as such, were subject to the control and direction of the Pakistani Banks and were constrained by general principles of agency and their employment relationship with the Pakistani Banks to be loyal to, and to act only for the interests of, the Pakistani Banks. Nothing about the way the books of account were maintained at the Branches or the head offices of the Pakistani Banks or the limited degree of operating autonomy given Branch-level personnel resulted in the creation of separate Branch-level juristic entities with rights or interests in the properties and assets of the Pakistani Banks in conflict with, or superior to, the rights and interests of the Pakistani Banks of which they were parts.

(iii) The Branches had no right, title or interest in the Jute or the Proceeds which was independent of, or inconsistent with, the Pakistani Banks' interest in the Jute and the Proceeds, and thus neither of the Branches nor their successors by nationalization or otherwise has any claim to the Jute or the Proceeds.

(iv) Not later than December 17, 1971, the Branches ceased to exist, and the authority of the agents assigned to the Branches to act for the respective Pakistani Banks was revoked.

(v) To the extent that banking business was conducted at the site of the Branches after December 16, 1971, it was on the basis of authority derived from the Government of Bangladesh and not on the basis of authority derived from either of the Pakistani Banks.

(vi) Any claims by the Bangladesh claimants to the Jute or the Proceeds based upon the Bills of Lading are barred by the relevant statute of limitations.

(vii) Neither the various nationalization decrees of Bangladesh described in paragraphs 2, 3, 21, 22 and 23 of the Stipulation and annexed thereto as exhibits nor the decrees to be offered as BC Exhibits WWWW or ZZZZ (collectively, the "Nationalization Decrees") were applicable by their terms to the Jute or the Proceeds.

(viii) There was no jurisdictional basis upon which Bangladesh could apply the Nationalization Decrees to the Jute or the Proceeds.

(ix) The Jute and the Proceeds were outside Bangladesh at the time of the purported nationalization, thus making the application of the Nationalization Decrees to the Jute or Proceeds extraterritorial as that term is used in determining the applicability of the so-called Act of State Doctrine. For the purposes of the Act of State Doctrine neither the Jute nor the Proceeds were localized in Bangladesh by reason of the purported location in Bangladesh of (A) the Bills of Lading, (B) Adamjee's head office, or (C) the debts of Adamjee to the Pakistani Banks.

Characterization of the Jute and Proceeds as security for the repayment of Adamjee's debts to the Pakistani Banks does not localize the Jute and the Proceeds in Bangladesh for the purposes of the Act of State Doctrine.

(x) Under the laws of Bangladesh there was, during the period between December 16, 1971 and March 26, 1972 and thereafter, no basis to subject Waterman or Golodetz to the jurisdiction of the courts of Bangladesh for the purpose of enforcing the claim asserted in these actions by the Bangladesh claimants.

(xi) If, contrary to the contention in the preceding paragraph, a basis for the exercise of judicial jurisdiction by Bangladesh over Waterman and Golodetz did exist under Bangladesh law on or after December 16, 1971 for the purpose of enforcing the claim asserted in these actions by the Bangladesh claimants then (A) the exercise thereof would not be recognized in the United States and (B) the mere existence of such a basis would not localize in Bangladesh the Jute or the Proceeds for the purposes of the Act of State Doctrine.

(xii) Any purported taking of the Jute or the Proceeds (whether from Muslim Bank, NBP or Adamjee) by the Government of Bangladesh would be confiscatory, since compensation was neither offered nor paid, and would therefore be contrary to the law and policy of the United States. The law and policy of the United States is also violated by the discriminatory application of any such purported

taking to Pakistani nationals only in spite of the fact that Pakistan may, at the time of the taking, have been at war with Bangladesh.

(xiii) The Nationalization Decrees are not entitled to recognition in the United States because they are extra-territorial and, being confiscatory and discriminatory, contrary to the law and policy of the United States.

(xiv) Under the law of Pakistan (as quoted in paragraph 27 of the Stipulation), private property may not be taken by the government of Pakistan except for public purposes and upon the payment of just compensation.

(xv) The law and public policy of Bangladesh with regard to the taking of private property under circumstances such as that at bar is irrelevant in this proceeding.

(xvi) The Bangladesh claimants' claim to the Jute and the Proceeds is barred by 22 U.S.C. § 2370(e)(2), the so-called "Hickenlooper Amendment", since the claim is based upon legislation which is contrary to principles of international law.

(xvii) The Bangladesh claimants may not relitigate issues determined against them by this Court in the case of United Bank Limited v. Cosmic International, 392 F. Supp. 262 (S.D.N.Y. 1975), are estopped from litigating, among other factual and legal issues, the contentions made in the following subparagraphs of paragraph 7 of this pre-trial order: (d) (identification of the Dacca Branch rather than NBP as the source of advances), (m), (n), (o), (q) (with

regard to the contention that Adamjee's debt, if any, was to, and had its situs at, the Dacca Branch rather than NBP itself), (s), (t), (u), (v), (w) and (x).

(xviii) The Bangladesh claimants may not relitigate issues determined against them by the United States District Court for the Eastern District of Pennsylvania in the case of Rupali Bank v. Provident National Bank, 72 Civ. 1653 (September 22, 1975), and are estopped from litigating, among other factual and legal issues, the contentions in the following subparagraphs of paragraph 7 of this pretrial order: (c) (to the extent that it states that the Motijheel Branch, rather than Muslim Bank itself, made advances), (f), (k), (l), (o), (q) (with regard to the contention that Adamjee's debt was to, and had its situs at, the Motijheel Branch rather than Muslim Bank itself), (s), (t), (u), (v), (w) and (x).

D. Contentions of the Bangladesh Claimants

7. The Bangladesh claimants contend that they are entitled to judgment because:

(a) Adamjee Jute Mills, Ltd., one of the Bangladesh claimants, is the seller of the Jute.

(b) That as seller of the Jute, Adamjee, the Bangladesh claimant, is entitled to receive the proceeds of such sale, either directly or by receiving a reduction of its indebtedness to one of the banks from which it had borrowed.

(c) That the Motijheel Branch of Muslim Bank had advanced to Adamjee a sum of rupees which was worth more than the value of the Jute, for which Adamjee had given to Motijheel Branch of Muslim Bank a lien on its manufactured products, including the Jute in question.

(d) That a Dacca Branch of NBP had also advanced to Adamjee, an amount of rupees in excess of the value of the Jute and Adamjee had given the Dacca Branch of NBP a lien on its manufactured goods, including the Jute.

(e) Adamjee had the carrier, Waterman Steamship Corporation, issue its Bills of Lading Nos. 501 and 502, in favor of "The Muslim Commercial Bank Limited, Dacca."

(f) That the head office of Muslim Bank gave a full and complete Power of Attorney to one, Abul Kalam, who was in charge of the Motijheel Branch. Said Power of Attorney was not revoked until on or after December 16, 1971, if it was revoked at all, and no effort was made to revoke that Power of Attorney prior to such date.

(g) That under the law pertaining in Pakistan and East Pakistan (now Bangladesh) Kalam was fully authorized to endorse and deliver said Bills of Lading and his acts in doing so would be binding upon Muslim Bank.

(h) That on or before December 4, 1971 or some other date prior to December 16, 1971 Kalam endorsed the Bills of Lading in favor of National Bank of Pakistan and said Bills of Lading were thereupon delivered to the Dacca office of NBP prior to December 16, 1971.

(j) That the Deed of Assignment from NBP to Muslim Bank dated October 29, 1974 and annexed to the stipulation as Exhibit F, as amended, was executed without consideration being paid therefor and was void under the law in effect in Pakistan.

(k) That each branch of Muslim Bank separately accounted for its own assets and liabilities and that under the laws then pertaining in Pakistan and now in Pakistan and Bangladesh, each branch was responsible for the repayment of its depositors' monies. Each branch had to use its own assets for the repayment of its depositors' monies, unless it could obtain credit facilities from the head office, some other branch, State Bank of Pakistan, some other bank or another lender.

(l) That the monies advanced by the Motijheel Branch of Muslim Bank to Adamjee, were advanced out of the assets of that branch.

(m) That each branch of NBP, separately accounted for its own assets and liabilities and that under the laws then pertaining in Pakistan and now in Pakistan and Bangladesh, each branch was responsible for the repayment of its depositors' monies. Each branch had to use its own assets for the repayment of its depositors' monies, unless it could obtain credit facilities from the head office, some other branch, State Bank of Pakistan, some other bank or another lender.

(n) That the monies advanced by the Dacca Branch of

NBP to Adamjee, were advanced out of the assets of that branch.

(o) On and after December 16, 1971, the date of the Pakistani surrender to the joint forces of Bangladesh and India, the Motijheel Branch of Muslim Bank and the Dacca Branch of NBP, continued to function as separate, independent entities, under the authority of the Government of Bangladesh, until March 26,1972 when these branches and their assets, subject to their liabilities, were nationalized and became parts of Rupali Bank and Sonali Bank respectively.

(p) The statute of limitations pertaining to Bills of Lading is inapplicable and has never been raised in any pleading or otherwise in this litigation, prior to the date of this pre-trial order and any defense or claim based upon such statutes has been waived.

(q) That the debt of Adamjee to the Motijheel Branch of Muslim Bank and the debt of Adamjee of Dacca Branch of NBP, each had its situs in the territory now known as Bangladesh and any security given to insure repayment of those debts also have its situs in the territory known as Bangladesh.

(r) That the location of the Bills of Lading in Bangladesh, located the claims against Golodetz and Waterman, which are the subject matters of this consolidated action in Bangladesh for purposes of the Act of State Doctrine.

(s) That the location of Adamjee's head office in

Bangladesh, and the location of the evidence of indebtedness of Adamjee to the respective branches of Muslim Bank of NBP located the debts of Golodetz and Waterman involved in this consolidated action in Bangladesh for purposes of the Act of State Doctrine.

(t) That there existed in Bangladesh, the basis to subject Waterman and Golodetz to the jurisdiction of the courts of Bangladesh for the purpose of enforcing claims asserted in this consolidated action under Section 20 of the Code of Civil Procedure, applicable in that country.

(u) If such jurisdiction were exercised by the courts of Bangladesh as referred to in the preceding paragraph, the exercise thereof would be recognized in the United States and would localize in Bangladesh the claims involved in this action for purposes of the Act of State Doctrine.

(v) That the taking of the Jute or the proceeds thereof by order of the government of Bangladesh, is not inconsistent with our American principles of law since such taking, even if without compensation, was from a citizen of a country at war with the Nation of Bangladesh.

(w) That irrespective of whether such taking is inconsistent with the public policies of the United States, our policy is inapplicable, since the law to be applied to determine the validity of such taking, is the law of Bangladesh and such taking is wholly consistent with the law in effect in that country.

(x) That both Bangladesh and Pakistan have, by constitutional enactment, allowed the taking of property of private citizens, without the payment of prompt and adequate compensation as mandated by the United States Constitution. This Court cannot superimpose our view of justice on two nations who have expressly rejected that view.

(y) That the so-called "Hickenlooper Amendment," 22 USC, Section 2370(e)(2) is inapplicable to this litigation by reason of the fact that it does not apply to the taking of an intangible claim such as is involved in this litigation and by reason of the fact that the Bangladesh orders are not contrary to any principles of international law.

(z) That neither the Doctrine of Res Judicata nor collateral estoppel will bind this Court, based on any decision rendered in United Bank, Ltd. v. Cosmic International, 392 F. Supp. 262 (S.D.N.Y. 1975) and the decision of the United States District Court for the Eastern District of Pennsylvania, in the case of Rupali Bank v. Provident National Bank, Civil Action # 72-1653.

(aa) Adamjee Jute Mills, Ltd. at all times relevant to this action was indebted to National Bank of Pakistan, Dacca. The bills of lading involved in this action were specifically mortgaged to National Bank of Pakistan, Dacca. The former Dacca office of the National Bank of Pakistan sent these bills of lading for collection after December 16, 1971 and these bills of lading were never endorsed in favor of National Bank of Pakistan, Karachi.

E. Exhibits and Witnesses

8. (a) The parties agree that the documents which have been annexed to the Stipulation are authentic and may be received in evidence, each party reserving the right to object to the materiality or relevancy of each such document. The additional exhibits which each party expects to offer at trial are identified below. Except as specifically noted by an asterisk preceding the description thereof, each of those documents is stipulated by the parties to be authentic.

(b) Muslim Bank's Exhibits. Muslim Bank intends to offer the following exhibits, each of which has been pre-marked as indicated in parenthesis after the descriptions thereof:

(i) Certificate of Incorporation of Muslim Bank, dated July 9, 1947 (MB Exhibit 1);

(ii) Muslim Bank's Certificate of Commencement of Business, dated August 17, 1948 (MB Exhibit 2);

(iii) Muslim Bank's Memorandum and Articles of Association (MB Exhibit 3);

(iv) Certificate of Registration of Muslim Bank, dated August 23, 1956 (MB Exhibit 4);

(v) License, dated March 17, 1966, authorizing Muslim Bank to open the Motijheel Branch (MB Exhibit 5) and accompanying letter from the State Bank of Pakistan (MB Exhibit 5A);

(vi) License, issued under the Foreign Exchange Regulation Act of 1947, to Muslim Commercial Bank Limited, permitting it to deal in foreign exchange at the Motijheel Branch, dated July 31, 1970 (MB Exhibit 6);

(vii) Statement of Affairs, dated November 18, 1971, for the Motijheel Branch of Muslim Bank (MB Exhibit 7);

*(viii) Copy of telex to Mansurul Ameen, dated December 8, 1971, with regard to routing of foreign exchange transactions (MB Exhibit 8);

*(ix) Telegram to correspondent banks, dated December 9, 1971, with regard to instructions emanating from branches of Muslim Bank (MB Exhibit 9);

*(x) Telex, dated December 10, 1971, from Muslim Bank's Head Office to its General Manager, Dacca, Mr. Mansurul Ameen (MB Exhibit 10);

*(xi) Telex, dated December 17, 1971, from Muslim Bank to all correspondent banks concerning cancellation of testing and agency arrangements with East Pakistan branches (MB Exhibit 11);

*(xii) Telex, dated December 28, 1971, to all correspondent banks with regard to cancellation of agency and testing arrangements with East Pakistan branches of Muslim Bank (MB Exhibit 12);

(xiii) Circular, dated December 28, 1971, with regard to list of authorized signatories (MB Exhibit 13);

(xiv) Cable, dated December 30, 1971, from Muslim Bank to all correspondent banks (MB Exhibit 14);

(xv) Excerpt from page 49 of THE NEW YORK TIMES of Friday, January 7, 1972 (MB Exhibit 15);

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* Authenticity not stipulated by Bangladesh claimants.

(xvi) Excerpt from THE LONDON TIMES of Wednesday, January 5, 1972 (MB Exhibit 16);

(xvii) Excerpt from page 16 of the LONDON DAILY TELEGRAPH of Wednesday, January 5, 1972 (MB Exhibit 17);

(xviii) Excerpt from the FINANCIAL TIMES of Thursday, January 6, 1972 (MB Exhibit 18);

(xix) Application for advance to Adamjee from Motijheel Branch to Muslim Bank's Head Office, dated June 16, 1970, with covering memorandum, dated August 22, 1970 (MB Exhibit 19);

(xx) Memorandum from Head Office to Motijheel Branch, dated September 29, 1970, in response to application for advance, dated June 16, 1970 (MB Exhibit 20);

(xxi) Application for advance to Adamjee from Motijheel Branch to Muslim Bank's Head Office, dated June 30, 1971 (MB Exhibit 21);

(xxii) Memorandum from Head Office to Motijheel Branch, dated October 9, 1971, in response to application for advance, dated June 30, 1971 (MB Exhibit 22);

(xxiii) Telex, dated January 29, 1971, from Akbarali to Motijheel Branch in response to telex of same date to Head Office (MB Exhibit 23);

(xxiv) Telex, dated January 29, 1971, from Motijheel Branch to Head Office requesting instructions regarding Adamjee export bills (MB Exhibit 24);

(xxv) Telex, dated January 30, 1971, from Motijheel Branch to Head Office with regard to Adamjee's

request for CLO arrangement against Sterling export bills (MB Exhibit 25);

(xxvi) Telex from Head Office to Motijheel Branch, dated January 30, 1971, approving Sterling CLO arrangement with Adamjee on specified conditions (MB Exhibit 26);

(xxvii) Sales Note #AD-4925, dated May 18, 1971, of R.E.B. Wilcox & Co. (New York), Inc. (MB Exhibit 27);

(xxviii) Pakistan Jute Mills Association Jute Goods Standard F.O.B. Contract Form 1962 (MB Exhibit 28);

(xxix) Letter dated May 31, 1971, from Adamjee Jute Mills Limited to Messrs. R.E.B. Wilcox & Co. (New York), Inc. (MB Exhibit 29);

(xxx) Letter dated July 27, 1971, from M. Golodetz & Company to R.E.B. Wilcox & Co. (New York), Inc. (MB Exhibit 30);

(xxxi) Letter dated July 30, 1971, from R.E.B. Wilcox & Co. (New York), Inc. to M. Golodetz & Company, Inc. (MB Exhibit 31);

(xxxii) Letter dated January 10, 1972, from Adamjee Jute Mills Limited to the Manager, Muslim Commercial Bank Limited, Karachi (MB Exhibit 32);

(xxxiii) Letter dated January 10, 1972, from The Muslim Commercial Bank Limited to The First National City Bank of New York (MB Exhibit 33);

(xxxiv) Telex dated February 28, 1972, from Adamjee to Golodetz (MB Exhibit 34);

(xxxv) Letter dated March 4, 1972, from Adamjee Jute Mills Limited to M. Golodetz & Company (MB Exhibit 35);

(xxxvi) Agreement dated October 29, 1974, between NBP and Muslim Bank (MB Exhibit 36);

(xxxvii) Amendment and Supplement to Assignment dated October 2, 1975, between NBP and Muslim Bank (MB Exhibit 36A);

(xxxviii) the Companies Act of 1913 as amended (the "Companies Act") (MB Exhibit 37);

(xxxvix) the Banking Companies Ordinance of 1962, as amended, with Rules promulgated thereunder (the "Ordinance") (MB Exhibit 38);

(xl) the State Bank of Pakistan Act of 1956, as amended (MB Exhibit 39);

(xli) the Foreign Exchange Regulation Act of 1947, as amended (MB Exhibit 40);

(xlii) the Contract Act of 1872 (the "Contract Act") (MB Exhibit 41);

(xliii) Part I of the Code of Civil Procedure of 1908 (the "Code") (MB Exhibit 42);

(xliv) Prince v. Oriental Bank Corp., 3 App. Cas. 325 (P. C. 1878) (MB Exhibit 43);

(xlv) Bank of India Ltd. v. Official Liquidator, All India Rptr. 37 Bombay Ser. 375 (1950) (MB Exhibit 44);

(xlvi) Arab Bank, Ltd. v. Barclays Bank, 2 All E.R. 226 (H.L. 1954) (MB Exhibit 45);

(xlvii) Puran Mal v. Ford and MacDonald & Co., All India Rptr. 1919 Allahabad Ser. 440 (MB Exhibit 46);

(xlviii) Habibullah v. Muhammad Amin, All Pak. Leg. Dec. 1965 (W.P.) Karachi 445 (MB Exhibit 47);

(xlix) Kesho Prosad Singh v. Sarwan Lal, All India Rptr. 1917 Calcutta Ser. 156 (MB Exhibit 48);

(l) Muhammad Shafi v. Australasia Bank Ltd., All Pak. Leg. Dec. 1958 (W.P.) Karachi 367 (MB Exhibit 490;

(li) Lakhmichand Ramchand v. Chotooram Motiram, Indian L.R. 24 Bombay Ser. 403 (1900) (MB Exhibit 50);

(lii) Tutika Basavaraju v. Parry & Co., Indian L.R. 27 Madras Ser. 315 (1903) (MB Exhibit 51);

(liii) Kalyanji Kunwarji v. Tirkaram Shoelal, Indian L.R. 1938 Nagpur Ser. 675 (MB Exhibit 52);

(liv) Allahabad Bank, Limited v. Gulli Lal, Indian L.R. 1940 Allahabad Ser. 207 (MB Exhibit 53);

(lv) Richardson v. Richardson, 43 T.L.R. 631 (Adm. 1927) (MB Exhibit 54);

(lvi) Bubna More & Co. v. Modern Trading Co., All Pak. Leg. Dec. 1960 Dacca 668 (MB Exhibit 55);

(lvii) Osaka Shosen Kaisha v. Province of East Pakistan, All Pak. Leg. Dec. 1966 Dacca 481 (MB Exhibit 56);

(lviii) Rahmania Trading Co. v. Eagle Star Insurance Company, Ltd., All Pak. Leg. Dec. 1960 Sup. Ct. 202 (MB Exhibit 57).

(c) Bangladesh Claimants' Exhibits. The Bangladesh

claimants intend to offer the following exhibits, each of which has been pre-marked as indicated in parenthesis after the descriptions thereof:

(i) Letter from E. A. Garda, Managing Director of The Muslim Commercial Bank, Ltd., dated March 16, 1971 to Mr. Mansurul Ameen (BC Exhibit A);

(ii) Power of Attorney dated June 25, 1964, issued by The Muslim Commercial Bank, Ltd., in favor of Mr. Abul Kalam (BC Exhibit B);

(iii) Schedule of Discretionary Limits dated February 15, 1971 for Branch General Manager, Dacca, Mr. Mansurul Ameen, General Manager for The Muslim Commercial Bank, Ltd. (BC Exhibit C);

(iv) Letter dated February 17, 1971 from General Manager of The Muslim Commercial Bank, Ltd. to Mr. Mansurul Ameen (BC Exhibit D);

(v) Demand Promissory Note from Adamjee Jute Mills Ltd. in favor of Adamjee Sons, Ltd. and Messrs. Abul Wahed Adamjee, Zakaria Adamjee and Gul Mohammed Adamjee, in the sum of 1 crore and 50 Lacs, endorsed by the payees in favor of National Bank of Pakistan (BC Exhibit E);

(vi) Demand Promissory Note made by Adamjee Jute Mills Ltd. dated September 15, 1964, in favor of Abul Wahed Adamjee, Zakaria Adamjee, Gul Mohammed Adamjee and M/S Adamjee Sons, Ltd., in the sum of 1 crore, endorsed by them in favor of National Bank of Pakistan (BC Exhibit F);

(vii) Demand Promissory Note made by Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. in favor of Abul Wahed Adamjee, Gul Mohammed Adamjee, Zakaria Adamjee and Adamjee Sons, Ltd., dated June 18, 1965 in the sum of 75 lacs and endorsed by them to National Bank of Pakistan (BC Exhibit G);

(viii) D.P. Note Delivery Letter dated November 29, 1956, addressed to the Manager of National Bank of Pakistan, local office Dacca, and signed for and on behalf of Adamjee Jute Mills Ltd., Adamjee Sons, Ltd., Abul Wahed Adamjee, Zakaria Adamjee and Gul Mohammed Adamjee (BC Exhibit H);

(ix) D.P. Note Delivery Letter dated September 15, 1964, addressed to the Manager of National Bank of Pakistan, local office Dacca, and signed for and on behalf of Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. and Abul Wahed Adamjee, Zakaria Adamjee and Gul Mohammed Adamjee (BC Exhibit I);

(x) D.P. Note Delivery Letter dated June 18, 1965 addressed to the Manager of National Bank of Pakistan, local office Dacca, signed by Adamjee Jute Mills Ltd., Adamjee Sons, Ltd., Abul Wahed Adamjee, Zakaria Adamjee and Gul Mohammed Adamjee (BC Exhibit J);

(xi) Certificate of Registration of Mortgage and etc., referring to Mortgage dated November 29, 1956 between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Karachi Dacca for 15 million rupees (BC Exhibit K);

(xii) Certificate of Registration of Mortgage and

etc., referring to Mortgage dated November 29, 1956 between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Karachi Dacca for 15 million rupees (BC Exhibit L);

(xiii) Certificate of Registration of Mortgage dated September 15, 1964, made between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Dacca, for 10 Million rupees (BC Exhibit M);

(xiv) Certificate of Registration of Mortgage dated September 15, 1964, made between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Dacca, for 10 million rupees (BC Exhibit N);

(xv) Certificate of Registration of Mortgage dated June 18, 1965, made between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Dacca, in the sum of 7,500,000 rupees (BC Exhibit O);

(xvi) Certificate of Registration of Mortgage dated June 18, 1965, made between Adamjee Jute Mills Ltd. and National Bank of Pakistan, Dacca, in the sum of 7,500,000 rupees (BC Exhibit P);

(xvii) Agreement for Cash Credit, dated November 29, 1956, between National Bank of Pakistan, Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. for 1 crore and 50 lacs (BC Exhibit Q);

(xviii) Agreement for Cash Credit dated September 15, 1964, between National Bank of Pakistan, Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. for 10 million rupees (BC Exhibit R);

(xix) Agreement for Cash Credit dated June 18, 1965 between National Bank of Pakistan, Adamjee Jute Mills Ltd., Abul Wahed Adamjee, Gul Mohd. Adamjee, Zakaria Adamjee for 75 lacs (BC Exhibit S);

(xx) Agreement for Cash Credit dated November 29, 1956, between National Bank of Pakistan, Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. for 1 crore and 50 lacs (BC Exhibit T);

(xxi) Agreement for Cash Credit dated September 15, 1964, between National Bank of Pakistan, Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. for 1 crore (BC Exhibit U);

(xxii) Agreement for Cash Credit dated June 18, 1965, between National Bank of Pakistan, Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. for 75 lacs (BC Exhibit V);

(xxiii) Form dated November 29, 1956 from Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. to National Bank of Pakistan (BC Exhibit W);

(xxiv) Form dated September 15, 1964, addressed to Abul Wahed Adamjee, Zakaria Adamjee, Gul Mohammed Adamjee, and Adamjee Sons, Ltd. from Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. (BC Exhibit X);

(xxv) Form dated June 18, 1965 addressed to Abul Wahed Adamjee, Gul Mohd. Adamjee, Zakaria Adamjee and Adamjee Sons, Ltd., signed by Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. (BC Exhibit Y);

(xxvi) Form addressed to National Bank of Pakistan,

local principal office Dacca, dated November 29, 1956, signed by Adamjee Sons, Ltd. (BC Exhibit Z);

(xxvii) Form dated September 15, 1964, addressed to National Bank of Pakistan, local office Dacca, signed by Adamjee Sons, Ltd. (BC Exhibit AA);

(xxviii) Form dated June 18, 1965, addressed to National Bank of Pakistan, signed by Adamjee Sons, Ltd. (BC Exhibit BB);

(xxix) Form entitled Letter Of Undertaking By Company Not To Create Any Further Charge Over Their Property And Assets, Including Uncalled Capital addressed to National Bank of Pakistan, local principal office, Dacca, signed by Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. dated November 29, 1956 (BC Exhibit CC);

(xxx) Form entitled Letter Of Undertaking By Company Not To Create Any Further Charge Over Their Property And Assets, Including Uncalled Capital addressed to National Bank of Pakistan, local office, Dacca, dated September 15, 1964, signed by Adamjee Jute Mills Ltd. and Admjee [sic] Sons, Ltd. (BC Exhibit DD);

(xxxi) Form entitled Letter Of Undertaking By Company Not To Create Any Further Charge Over Their Property And Assets, Including Uncalled Capital addressed to National Bank of Pakistan, local office, Dacca, dated June 18, 1965, signed by Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. (BC Exhibit EE);

(xxxii) Guarantee Agreement dated November 29, 1956,

in favor of National Bank of Pakistan, local principal office, Dacca, to the extent of 1 crore and 50 lacs, borrowings by Adamjee Jute Mills Ltd., signed by Adamjee Sons, Ltd., Abul Wahed Adamjee, Zakaria Adamjee and Gul Mohammed Adamjee (BC Exhibit FF);

(xxxiii) Guarantee Agreement addressed to National Bank of Pakistan, local office Dacca, which guarantees borrowings by Adamjee Jute Mills Ltd., in the sum of 1 crore, dated September 15, 1964, signed by Abul Wahed Adamjee, Zakaria Adamjee, Gul Mohammed Adamjee and Adamjee Sons, Ltd. (BC Exhibit GG);

(xxxiv) Guarantee Agreement addressed to National Bank of Pakistan, local office, Dacca, dated June 18, 1965, guaranteeing borrowings of Adamjee Jute Mills Ltd. up to 75 lacs, signed by Abul Wahed Adamjee, Zakaria Adamjee, Gul Mohd. Adamjee and Adamjee Sons, Ltd. (BC Exhibit HH);

(xxxv) Certified copy of resolution, authorizing director's guarantee of Adamjee Sons, Ltd., referring to undated meeting (BC Exhibit II);

(xxxvi) Certified copy of resolution of the Board of Directors of Adamjee Jute Mills Ltd., held on Thursday November 8, 1956 (BC Exhibit JJ);

(xxxvii) Letter on stationery of Adamjee Jute Mills Ltd., certifying resolution adopted on June 17, 1965 (BC Exhibit KK);

(xxxviii) Copy of resolution of Adamjee Jute Mills

Ltd. adopted at meeting held on September 4, 1957 (BC Exhibit LL);

(xxxix) Copy of resolution of Adamjee Jute Mills Ltd. laying down directions as to mode of operating the Company's account with the Bank, referring to meeting held on September 4, 1957 (BC Exhibit MM);

(xl) Extract of the Minutes of Board of Directors Meeting of Adamjee Jute Mills Ltd. held on May 29, 1964 (BC Exhibit NN);

(xli) Certified copy of Minutes of Board of Directors Meeting of Adamjee Sons, Ltd. on August 31, 1966 (BC Exhibit OO);

(xlii) Certified copy of Minutes of Board of Directors Meeting of Adamjee Sons, Ltd. held on August 31, 1966 (BC Exhibit PP);

(xliii) Extract of the Minutes of Board of Directors Meeting of Adamjee Jute Mills Ltd. of June 17, 1965 (BC Exhibit QQ);

(xliv) Letter dated September 15, 1964, addressed to the Manager of National Bank of Pakistan, local office, Dacca - 2, signed by Adamjee Jute Mills Ltd. and Admjee [sic] Sons, Ltd. (BC Exhibit RR);

(xlv) Confirmation of Account signed on behalf of Adamjee Jute Mills Ltd. and Admjee [sic] Sons, Ltd., addressed to the National Bank of Pakistan, local office, Dacca (BC Exhibit SS);

(xlvi) Letter dated June 18, 1965, addressed to the Manager of National Bank of Pakistan, local office, Dacca, signed by Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. (BC Exhibit TT);

(xlvii) Form of "Revival Letter" (Form I), dated January 6, 1970, signed by Adamjee Jute Mills Ltd. and Admjee[sic] Sons, Ltd. to National Bank of Pakistan, local office, Dacca (BC Exhibit UU);

(xlviii) Form of "Revival Letter" - (Form II) dated January 6, 1970, signed by Adamjee Sons Ltd., in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit VV);

*(xlix) Letter dated December 6, 1971, signed for and on behalf of Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. addressed to the Manager of National Bank of Pakistan, Motijheel, Dacca (BC Exhibit WW);

(l) Letter dated March 6, 1974 from I. Haider (Manager-Finance), Adamjee Jute Mills Ltd., addressed to Mr. Syed Manzur Quader, Deputy General Manager, Sonali Bank, head office Motijheel Comm Area, Dacca (BC Exhibit XX);

(li) Letter dated October 23, 1971 with attachments addressed to the Chief Manager of National Bank of Pakistan, local office, Motijheel, Dacca, from Adamjee Jute Mills Ltd. and Adamjee Sons, Ltd. (BC Exhibit YY);

(lii) Letter dated July 15, 1971 from Adamjee Jute

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* Authenticity not stipulated by Muslim Bank.

Mills Ltd. and Adamjee Sons Ltd. to the Chief Manager of Naticnal Bank of Pakistan, local office, Motijheel, Dacca (BC Exhibit ZZ);

(liii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated December 31, 1953 for 1 crore and 50 lacs, in favor of The Muslim Commercial Bank, Ltd., Dacca, as registered with the Registrar of Joint Stock Companies (BC Exhibit AAA);

(liv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated November 29, 1956, for 1 crore and 50 lacs, in favor of National Bank of Pakistan, L.B.O., Dacca, as registered with the Registrar of Joint Stock Companies (BC Exhibit BBB);

(lv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated November 29, 1956, in favor of National Bank of Pakistan, L.P.O., Dacca, for 1 crore and 50 lacs, as registered with the Registrar of Joint Stock Companies (BC Exhibit CCC);

(lvi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., in favor of The Muslim Commercial Bank, Ltd., Dacca, dated September 18, 1957, for 25 lacs (BC Exhibit DDD);

(lvii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated October 8, 1957, in favor of Habib Bank, Ltd., at 78 Moulvi Bazar, Dacca, for 50 lacs (BC Exhibit EEE);

(lviii) Particulars of Modification of Mortgage or

Charge of Adamjee Jute Mills Ltd., for 1 crore and 50 lacs dated February 6, 1958, in favor of The Muslim Commercial Bank, Ltd., Mitford Road, Dacca (BC Exhibit FFF);

(lix) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., in favor of The Muslim Commercial Bank, Ltd., Mitford Road, Dacca, dated February 6, 1958 (BC Exhibit GGG);

(lx) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated September 15, 1964, for 1 crore, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit HHH);

(lxi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated September 15, 1964, for 1 crore, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit III);

(lxii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated December 29, 1964, for 3 crore, in favor of The Muslim Commercial Bank, Ltd., Jinnah Avenue, Ranna, Dacca - 2 (BC Exhibit JJJ);

(lxiii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated June 18, 1965, for 75 lacs, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit KKK);

(lxiv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated June 18, 1965, for 75 lacs, in favor of National Bank of Pakistan, local office, Dacca

(BC Exhibit LLL);

(lxv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated June 23, 1965, in favor of Industrial Development Bank of Pakistan, for U.S. Dollars $550,000.00, described as equivalent of Pakistan rupees, 26,40,000.00 approximately (BC Exhibit MMM);

(lxvi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated June 23, 1965, in favor of Industrial Development Bank of Pakistan, for U.S. Dollars $250,000.00, described as equivalent to 12 lacs (BC Exhibit NNN);

(lxvii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated June 23, 1965, in favor of Industrial Development Bank of Pakistan, for U.S. Dollars $146,500.00 equivalent to Pakistan rupees 7,03,200.00 approximately (BC Exhibit OOO);

(lxviii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., in favor of Industrial Development Bank of Pakistan, Dacca, dated July 10, 1965, for securing the payment of the following sums:

(1) $550,000.00

(2) $146,500.00

(3) $250,000.00

(BC Exhibit PPP);

(lxix) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated December 6, 1966 for 5 crore (BC Exhibit QQQ);

(lxx) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., for 1 crore, dated July 6, 1967, in favor of American Express Company, Inc., Dacca (BC Exhibit RRR);

(lxxi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated July 6, 1967, for 1 crore, in favor of American Express Company, Inc., Dacca (BC Exhibit SSS);

(lxxii) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., referring to Mortgage for 1 crore, dated July 17, 1967, in favor of National Bank of Pakistan (BC Exhibit TTT);

(lxxiii) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., for 75 lacs, dated July 17, 1967, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit UUU);

(lxxiv) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 10, 1967, rupees for 5 crore (BC Exhibit VVV);

(lxxv) Particulars of Mortgage or Charge of Adamjee Jute Mills Inc., dated August 21, 1967, for 1 crore, in favor of American Express Company, Inc., Dacca (BC Exhibit WWW);

(lxxvi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 21, 1967, for 1 crore, in favor of American Express Company, Inc., Dacca (BC Exhibit XXX);

(lxxvii) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 18, 1967,

for 1 crore and 50 lacs, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit YYY);

(lxxviii) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 18, 1967, for 75 lacs, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit ZZZ);

(lxxix) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 18, 1967, for 1 crore, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit AAAA);

(lxxx) Particulars of Modification of Mortgage or Charge of Adamjee Jute Mills Ltd., dated April 20, 1967, for 1 crore and 50 lacs, in favor of National Bank of Pakistan, local office, Dacca (BC Exhibit BBBB);

(lxxxi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated October 7, 1967, for 4 crores, in favor of Habib Bank, Ltd. (BC Exhibit CCCC);

(lxxxii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 29, 1968, for 2 crores, in favor of The Muslim Commercial Bank, Ltd., Motijheel, Dacca (BC Exhibit DDDD);

(lxxxiii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated August 29, 1968, for 2 crores, in favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit EEEE);

(lxxxiv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated March 22, 1969, for 50

lacs, in favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit FFFF);

(lxxxv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated September 16, 1968, for 25 lacs, in favor of Australasia Bank, Ltd. (BC Exhibit GGGG);

(lxxxvi) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated March 22, 1969, for 75 lacs, in favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit HHHH);

(lxxxvii) Particulars of Mortgage or Charge of Adamjee Jute Mill Ltd., dated March 22, 1969, for 75 lacs, in favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit IIII);

(lxxxviii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated March 22, 1969, for 75 lacs, in favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit JJJJ);

(lxxxix) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated March 22, 1969, for 50 lacs, in favor of The Muslim Commercial Bank, Ltd. (BC Exhibit KKKK);

(xc) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated March 22, 1969, for 75 lacs, in favor of The Muslim Commercial Bank, Ltd., Motijheel, Dacca (BC Exhibit LLLL);

(xci) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated October 10, 1969, for 25 Lacs, in

favor of The Muslim Commercial Bank, Motijheel, Dacca (BC Exhibit MMMM);

(xcii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated February 2, 1970, for 1 crore, in favor of American Express International Banking Corporation, Dacca (BC Exhibit NNNN);

(xciii) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., for 50 lacs, dated September 20, 1970, in favor of American Express International Banking Corporation, Dacca (BC Exhibit OOOO);

(xciv) Particulars of Mortgage or Charge of Adamjee Jute Mills Ltd., dated May 21, 1971, for 49 lacs and 95,000 rupees, in favor of The Muslim Commercial Bank, Ltd., Motijheel, Dacca (BC Exhibit PPPP);

*(xcv) Copy of invoice dated November 10, 1971 from Adamjee Jute Mills, Ltd. to M. Golodetz & Company, for ৳ 141,480.00 (BC Exhibit QQQQ);

*(xcvi) Copy of invoice dated December 6, 1971 from Adamjee Jute Mills Ltd. to M. Golodetz & Company, for ৳ 78,600.00 (BC Exhibit RRRR);

(xcvii) Letter dated June 15, 1970 from Chief Officer of the National Bank of Pakistan in Karachi, to the Dy. Managing Director, National Bank of Pakistan, principal office, Dacca (BC Exhibit SSSS);

(xcviii) Copy of Hypothecation of Goods of Adamjee

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* Authenticity not stipulated by Muslim Bank.

Jute Mills Ltd., in favor of The Muslim Commercial Bank, Ltd., Ranna, Dacca (BC Exhibit TTTT);

(xcix) Copy of Hypothecation of Goods of Adamjee Jute Mills Ltd., in favor of The Muslim Commercial Bank, Ltd., Ranna, Dacca (BC Exhibit UUUU);

(c) Sonali Bank, local office, Dacca, Charges Report as of August 20, 1973 of Adamjee Jute Mills, Ltd. (BC Exhibit VVVV);

(ci) Bangladesh (Administration of Banks) Order, 1971 (BC Exhibit WWWW);

(cii) Madhya Pradesh State Cooperative Bank v. Dalal, All India Rptr. 54, Bombay series 60 (1967) (BC Exhibit XXXX);

(ciii) Delhi Cloth and General Mills Company, Ltd. v. Harnam Singh, All India Rptr., Punjab series 42, Page 590 (1955) (BC Exhibit YYYY);

(civ) The Bangladesh (Taking Over or Control and Management of Industrial Commercial Concerns) Order 1972 (BC Exhibit ZZZZ);

(cv) Banque Internationale De Commerce De Petrograd v. Goukassow [1924] A. C. 1950 (House of Lords) (BC Exhibit AAAAA);

(cvi) Appanna v. Subbarayulu, All India Rptr. 1957 Andhra Pradesh series 530 (BC Exhibit BBBBB);

(cvii) Chettiar v. Chettiar, All India Rptr., Madras series, Volume 43C201 (BC Exhibit CCCCC);

(cviii) Gaekwar Baroda State Railway v. Habib Ullah,

All India Rptr., Allahabad series, Volume LDI, Page 828 (BC Exhibit DDDDD);

(cix) Mani v. I.R.P., All India Rptr., Madras series, Volume 50C11 (BC Exhibit EEEEE);

(cx) D. Muniranggappa v. Venkatappa, All India Rptr. Mysore series, Volume 52C83 (BC Exhibit FFFFF);

(cxi) Ranchhod v. Dharanchand, Indian Law Reports, Bombay series, Volume LIX, Page 365 (BC Exhibit GGGGG);

(cxii) Haveli Shah v. Shaikh Painda, All India Rptr. 1926, Privy Counsel 88 (from Baluchistan) (BC Exhibit HHHHH);

(cxiii) Soniran Jeetmull v. R. D. Tata & Company, Limited, Indian Appeals Reports, Volume LIV, Page 265 (1927) (BC Exhibit IIIII);

(cxiv) Willis & Company v. Bank of England, (1835) 4 A & E 21 (BC Exhibit JJJJJ);

*(cxv) Balance sheet of Sonali Bank immediately upon its formation (BC Exhibit KKKKK);

(cxvi) Sriramalu v. Lakshminarayan, A.I.R. 1927 Madras 1102 (BC Exhibit LLLLL);

(cxvii) Ammamalay v. Thornhill, 36 C.W.N. 1 Privy Council (BC Exhibit MMMMM).

(d) Should either party hereafter decide to offer additional exhibits, prompt notice of that fact should be given to the other party and to the Court by serving and fil-

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* Authenticity not stipulated by Muslim Bank.

ing a pretrial memorandum. The pretrial memorandum may be in a short-form statement filed with the deputy clerk for the calendars, unless served at trial, when it is to be filed with the trial judge. It shall set forth the reason why the exhibits were not theretofore identified. No exhibit may be offered at trial unless identified in this order or in such pretrial memorandum.

9. The parties agree that the witnesses whom each party now intends to call, along with the specialty of each expert to be called, are those listed below. Should any party hereafter decide to call any additional witnesses, prompt notice of their identity shall be given to the other party and to the Court by serving and filing a pretrial memorandum. The pretrial memorandum may be in a short-form statement filed with the deputy clerk for calendars, unless served at trial, when it is to be filed with the trial judge. It shall set forth the reason why the witness was not theretofore identified. No witness may be called at trial unless identified in a pretrial memorandum.

(a) Muslim Bank:

M. A. Wasay Senior Executive Vice President of Muslim Bank	Testimony with regard to: (a) the internal organization of Muslim Bank and in particular its branch operations; (b) the banking relationship with Adamjee Jute Mills, Ltd.; (c) the facts and circumstances surrounding the execution and delivery of the Deed of Assignment from NBP; and

	(d) such other testimony as required in rebuttal to the Bangladesh claimants' case.
R. Akbarali Executive Vice President of Muslin Bank	Testimony with regard to: (a) the accounting procedures followed by Muslim Bank; (b) international trade transactions; (c) termination of the authority of Muslim Bank's agents in East Pakistan; and (d) such other testimony as required in rebuttal to the Bangladesh claimants' case.
Abul Kalam Former Assistant Manager Muslim Bank's former Motijheel Branch	Testimony with regard to: (a) the relationship between Muslim Bank and Adamjee and (b) the circumstances surrounding the endorsement of Waterman Bills of Lading Nos. 501 and 502.
Officer of NBP [Name to be supplied not less than 15 days prior to trial by pretrial memorandum]	Testimony with regard to: (a) the branch operation of NBP; (b) that bank's relationship with Adamjee Jute Mills; and (c) such other testimony as required in rebuttal to the Bangladesh claimants' case.
Ashraf Adamjee Senior Executive of Adamjee Jute Mills, Ltd.	Testimony with regard to: (a) the relationship between Adamjee and Muslim Bank and NBP; (b) the steps taken by Adamjee to assure that the Jute and the Proceeds remained the property of Muslim Bank after the initial assignment by Adamjee; and such other testimony as is required in rebuttal to the Bangladesh claimants' case.
Representative of M. Golodetz	Testimony with regard to the documents referred to above as MB Exhibits 27-31.

G. H. Malik Barrister-at-Law	Expert testimony with regard to: (a) the validity and enforceability under the law of Pakistan of the Deed of Assignment from NBP to Muslim Bank; (b) agency law of Pakistan; (c) negotiable instruments law of Pakistan; (d) principles governing the exercise of jurisdiction by the courts of Pakistan and Bangladesh over foreign nationals; (e) the law and policy of Pakistan with regard to the taking of private property by the government.

(b) Bangladesh Claimants:

Hafeez Ahmed Accountant for Sonali Bank	Testimony with regard to: (a) receipt of endorsed Bills of Lading Nos. 501 and 502; (b) date of such receipt; (c) operation of Dacca Branch of NBP prior to December 16, 1971; and (d) such other testimony as required in rebuttal of Muslim Bank case.
Syed Manzur Quader Deputy General Manager of Sonali Bank	Testimony with regard to: (a) the accounting practices followed by NBP prior to December 16, 1971; (b) international trade transactions of NBP prior to December 16, 1971; (c) operation of branches of NBP prior to December 16, 1971; (d) the banking relationship with Adamjee Jute Mills, Ltd. up to Decemer 16, 1971; and (e) such other testimony as required in rebuttal of Muslim Bank case.
A. Wahed General Manager of Rupali Bank	Testimony with regard to: (a) the International Organization of Muslim Bank prior to December 16, 1971 and in particular, its branch operations;

(b) banking relationship with Adamjee Jute Mills, Ltd., up to December 16, 1971;
(c) Authority of Abul Kalam; and
(d) such other testimony as required in rebuttal of Muslim Bank case.

Asrarul Hossain
Barrister-at-Law

Testimony with regard to:
(a) principles governing the exercise of jurisdiction by the Courts of Pakistan and Bangladesh over foreign nations, including the original defendants involved in this litigation;
(b) Agency Law of Pakistan; and
(c) Negotiable Instruments Law of Pakistan.

10. The parties agree that Muslim Bank at this time expects to require no more than two trial days to present its evidence and that the Bangladesh claimants expect to require no more than two trial days to present their evidence.

F. Issues to be Tried

11. The issues to be tried are formulated by the Court as follows:

(a) Did Muslim Bank have an interest in the Jute and a right to receive the Proceeds?

(b) Was there an endorsement and delivery of the Bills of Lading by Muslim Bank which effectively transferred to NBP its interest in the Jute and its right to receive the Proceeds?

(c) Does the Assignment effectively convey to Muslim Bank the interest, if any, of NBP in the Jute and the Proceeds?

(d) Absent nationalization or seizure by authority of the Government of Bangladesh, did the Motijheel Branch of Muslim Bank or the Dacca Branch of NBP have any interest in the Jute or the Proceeds?

(e) Did the former Motijheel Branch of Muslim Bank or the former Dacca Branch of NBP have an interest in the Jute and the Proceeds on March 26, 1972 (the effective date of the Bangladesh Banks Nationalisation Order of 1972, a copy of which is annexed to the Stipulation as Exhibit B) which was superior to that of the named banks?

(f) Are the claims of the Bangladesh claimaints to the Jute and the Proceeds which are based upon the Bills of Lading barred by the relevant statute of limitations?

(g) Did the Bangladesh Banks Nationalisation Order of 1972 apply by its terms to the Jute or the Proceeds?

(h) For the purposes of the Act of State Doctrine, would the taking of the Jute or the Proceeds under the Bangladesh Banks Nationalisation Order of 1972 or the other Nationalization Decrees be extraterritorial or would such taking be within the territory of Bangladesh?

(i) If any of the Nationalization Decrees is found to apply by its terms to the Jute or the Proceeds, should this Court give effect to that decree to transfer the Jute and the Proceeds to the Bangladesh claimants?

(j) Are the parties estopped or barred from litigating any of the foregoing issues or related factual and legal

matters by reason of this Court's decision in the case of United Bank Limited v. Cosmic International, 392 F. Supp. 262 (S.D.N.Y. 1975), or the decision of the United States District Court for the Eastern District of Pennsylvania in the case of Rupali Bank v. Provident National Bank, 72 Civ. 1653 (September 22, 1975)?

SO ORDERED:

_____
U.S.D.J.

Dated: New York, New York
December , 1975

Entry of the foregoing Order
is hereby consented to:

NIERENBERG, ZEIF & WEINSTEIN

By _____
A Member of the Firm
Attorneys for plaintiffs
Rupali Bank, Sonali Bank,
Pubali Bank and Adamjee
Jute Mills, Ltd.
230 Park Avenue
New York, New York 10017
679-1455

DEBEVOISE, PLIMPTON, LYONS & GATES

By _____
A Member of the Firm
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Muslim Commercial Bank Ltd.
299 Park Avenue
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752-6400

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OPINION AND ORDER FILED APRIL 21, 1977

U.S. DISTRICT COURT
FILED
APR 21 1977
9:58 AM
S. D. OF N. Y.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSLIM COMMERCIAL BANK LTD.,

Plaintiff,

- v -

M. GOLODETZ & COMPANY and
WATERMAN STEAMSHIP CORP.,

Defendants.

72 Civ. 5309

PUBALI BANK, RUPALI BANK,
SONALI BANK AND ADAMJEE JUTE
MILLS, LTD.,

Plaintiffs,

- v -

M. GOLODETZ & COMPANY and
WATERMAN STEAMSHIP CORP.,

Defendants.

73 Civ. 566

APPEARANCES:

ROBERT B. von MEHREN, ESQ.
JOHN HALL, ESQ.
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New York, New York 10017

Attorneys for the Muslim Commerical Bank, Ltd.

JEROME LIPPER, ESQ.
LEON, WEILL & MAHONY
261 Madison Avenue
New York, New York 10016

Attorneys for the Pubali Bank, Rupali Bank,
Sonali Bank and Adamjee Jute Mills, Ltd.

Opinion and Order filed April 21, 1977

LAWRENCE W. PIERCE, D.J.

OPINION AND ORDER

The Muslim Commercial Bank Limited, hereinafter the Pakistani claimant,[1/] has moved for an order removing the above consolidated actions from the suspense calendar and granting summary judgment. For the reasons stated herein, the motion is granted.

I. Background

Viewing the facts most favorably to the party opposing the motion, it would appear from those undisputed contentions of the parties and their stipulations of facts, that on or about November 10, 1971 in the territory of East Pakistan (now the Republic of Bangladesh), the Waterman Steamship Corp., an ocean carrier, issued two order bills of lading in connection with a shipment of a quantity of jute. The jute was manufactured by the Adamjee Jute Mills in East Pakistan and was to be delivered to the ultimate purchaser, Cosejo Estatal Del Asucar ("CEDA") in the Dominican Republic. The bills were made payable to the order of the Pakistani claimant and were to be delivered to M. Golodetz & Company, hereinafter Golodetz, a New York jute brokerage firm and intermediary buyer in the transaction between Adamjee, the seller, and CEDA, the buyer.

The jute arrived in the Dominican Republic on or about December 17, 1971. On December 29, 1971, the government of the new Republic of Bangladesh, having successfully wrested

political control from the government of East Pakistan, assumed control of all branches of the Pakistani banks located in the new republic. By order dated February 28, 1972, the Bangladeshi government expropriated all property owned by "enemy aliens", including the property and indebtedness of the Pakistani claimant. By order dated March 26, 1972, the government thereafter vested in the Rupali Bank and the Sonali Bank, hereinafter the Bangladeshi claimants,[2/] the previously expropriated assets of the Pakistani claimant including the two bills of lading involved in the sale of jute.

In 1972, the bills of lading were presented to Golodetz for payment on behalf of the Bangladeshi claimants. Similarly, the Pakistani claimant sought payment from Golodetz. Claiming no interest in the proceeds of the sale of the jute, $521,568 plus accrued interest, Golodetz deposited the proceeds in escrow in the Southern District of New York, pending the entry of judgment by this Court.

The parties thus remaining before this Court are the Bangladeshi claimants and the Pakistani claimant, both alleging an entitlement to the proceeds of the sale of jute. The Bangladeshi claimants contend that they are entitled to the proceeds as proper assignees of the Bangladeshi government whose expropriation of the bills of lading vested titled to the jute in the government. They further contend that this Court may not inquire into the legitimacy

of this expropriation by virtue of the "act of state doctrine". Conversely, the Pakistani claimant contends that the act of state doctrine is inapplicable to the facts of this case and that because the expropriation was contrary to the law and policy of the United States, this Court may not enforce the title said to repose in the Bangladeshi government, so as to entitle the Bangladeshi claimants to the proceeds of the jute sale.

II. The Act of State Doctrine

The act of state doctrine as applied by our courts is embodied in the holding of Underhill v. Hernandez, 168 U.S. 250, 252 (1897).

> "Every sovereign state is bound to respect the independence of every other sovereign state and the courts of one country will not sit in judgment of the acts of the government of another done within its own territory." (emphasis added).

The effect of the doctrine is to preclude judicial review of state acts which are wholly executed within the sovereign's territorial boundaries to determine their consistency or inconsistency with the law and policy of the United States. The doctrine rests upon principles of international comity and common sense; not only would it be an affront to a sovereign state for our courts to judge the sovereign's acts affecting the rights of parties in relation to property located within its territorial borders, in most cases, there would be very little a court could do

to affect the results of the sovereign's acts. See Tabacalera Severiano Jorge, S.A. v. Standard Cigar Co., 392 F.2d 706, 715 (5th Cir. 1968).

The applicability of the act of state doctrine to the facts of this case therefore depends upon a determination of the nature of the property expropriated by the Bangladeshi government and the location of that property at the time of the expropriation. The facts of the case, as well as the parties, suggest that the nature of the property seized could be one of four possibilities: the jute itself, the proceeds from the sale of the jute, the underlying contractual obligation or debt owed to the seller, or the bills of lading as alleged by the Bangladeshi claimants.

It is not disputed that the jute was somewhere in the Dominican Republic at the time of the expropriation and that the proceeds from the sale of the jute were located in the United States at the time of the expropriation. As such, neither the jute nor the proceeds could have been the subject matter of the expropriation. However, what is in dispute is whether or not the bills of lading or the underlying contractual obligation or debt constituted the property seized by the Bangladeshi government.

The Pakistani claimant contends that the subject matter of the expropriation was the "debt" owed by Golodetz to the Pakistani claimant by virtue of the contract for the sale of the jute. This claimant further contends that since

the situs of the debt was not in Bangladesh but in the United States at the time the order of nationalization was issued, the Bangladeshi government did not expropriate property within its territorial boundaries. Hence, it is argued, that this Court is not precluded from reviewing the propriety of the act of state of the government of Bangladesh. See United Bank Limited v. Cosmic International Inc., 392 F.Supp. 262 (S.D.N.Y. 1975), aff'd, Nos. 164-166, 170 (slip op. at 5787-808) (2d Cir. September 30, 1976), and Tabacalera Severiano Jorge, S.A., supra.

Conversely, the Bangladeshi claimants contend that the subject matter of the expropriation was the bills of lading, which as documents of title under Pakistani law, entitle the Bangladeshi government and the Bangladeshi claimants, as assignees, to the proceeds of the jute sale by virtue of the fact that the bills were located within the territory of Bangladesh at the time of the expropriation. Hence, these claimants argue that the propriety of the expropriation is not reviewable by this Court.[3/] See Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964).

The cases, cited by the respective parties, are relevant to the disposition of the issues presently before the Court. In Sabbatino, cited by the Bangladeshi claimants, an American commodity broker had contracted with a Cuban corporation to buy Cuban sugar. Thereafter, the Cuban government expropriated the corporation's rights and property

including a consigned shipment of sugar stored aboard a ship docked alongside a Cuban port. To secure the government's consent for the shipment of sugar, the broker, by a new contract, agreed to make payment for the sugar to an "instrumentality" of the Cuban government, which thereafter assigned the bills of lading to a Cuban bank. Another "instrumentality" of the Cuban government, located in New York, was instructed to deliver the bills in return for payment. The broker accepted and negotiated the documents, receiving the proceeds but refusing to deliver them to the Cuban instrumentality. The Cuban government sued for conversion. The district court and the Court of Appeals concluded that the broker's property interest in the sugar was subject to Cuba's territorial jurisdiction and acknowledged that the act of state doctrine precludes judicial inquiry into the Cuban government's expropriation of the sugar--but nevertheless ruled that the act of state doctrine was inapplicable since the questioned act violated international law.

The Supreme Court reversed on the grounds that because the sugar was seized within the territorial jurisdiction of the Cuban government, the act of state doctrine precluded review by American courts, notwithstanding alleged violations of international law.

In Tabacalera, cited by the Pakastani claimants, the Fifth Circuit refused to invoke the act of state doctrine

to allow, in effect, an assignee "instrumentality" of the Cuban government to collect upon a "credit" owed by an American creditor domiciled in Florida. Characterizing the credit as an "intangible", the Court stated that:

> "In this case . . . ., it cannot be doubted that whatever may be the ordinary concept of situs of a debt, the government of Cuba was not physically in a position to perform a fait accompli in the nature of the acquisition by the Cuban government or its (instrumentality) of the money owed to (the nationalized corporation). . . . To this extent, we think it clear that whatever efforts were made by the Cuban government dealing with (the nationalized corporation) these acts are to be recognized under the Act of State Doctrine only insofar as they were able to come to complete fruition within the dominion of the Cuban government." at 715.

(This "fait accompli" language of Tabacalera was cited with approval by this circuit in United Banks, supra.) The Fifth Circuit distinguished Tabacalera from Sabbatino on the ground that in Sabbatino, the Cuban government had actual physical control over the property constituting the subject matter of the expropriation and the underlying chattel of the government's claim, the sugar. However, in Tabacalera, there was no such actual physical control over either chattel or the debt created by the sale thereof; the situs of which was found to be in Florida, the domicile of the debtor.

Both Sabbatino and Tabacalera involve commercial transactions similar to that presented here. Thus, in applying their holdings to the case at bar, this Court may find the act of state doctrine applicable where it is shown that the Bangladeshi government had either (1) actual physical control over the chattel at the time of the expropriation underlying the commercial transaction (the jute), or (2) that the situs of the debt created by the commercial transaction was that of Bangladesh, (3) or that the government of Bangaldesh was otherwise able "to perform a fait accompli" within the contemplation of Tabacalera. The facts as presented in this action do not support a finding of (1) or (2) since it is undisputed that the jute was not in Bangladesh at the time of the expropriation. And this circuit has held that "[f]or the purposes of the act of state doctrine, a debt is not 'located' within a foreign state unless that state has the power to enforce or collect it." Menendez v. Saks and Company, 485 F.2d 1353, 1364 (2d Cir. 1973), rev'd on other grounds, sub nom, Alfred Dunhill of London, Inc. v. Republic of Cuba, _____ U.S. _____, 96 S.Ct. 1854 (1976).

Nor can the seizure of the bills of lading be considered a "fait accompli" since such was not an act ". . . able to come to complete fruition within" the dominion of the Bangladeshi government. Tabacalera at 715. Complete fruition of the act will come about, if at all, when the

Bangladeshi government acquires the proceeds from the jute sale. Since the proceeds are located in this district, such acquisition will come about, if at all, through an act of this Court sitting in this district and not through the act of the Bangladeshi government within its dominion. Id. Therefore, absent this ability on the part of the Bangladeshi government to enforce the rights attaching to the bills of lading, short of resort to this Court, it cannot be said that the seizure of the bills, without more, was an "act of state" within the meaning of the doctrine.[4/]

Accordingly, the Court finds that the expropriation by the Bangladeshi government is not protected by the act of state doctrine and that this Court is therefore not precluded from review of said expropriation in relation to the law and policy of the United States. See Menendez, supra, and Republic of Iraq v. First National City Bank, 353 F.2d 47 (2d Cir. 1965), cert. denied, 382 U.S. 1027 (1966).

III. Applicable Law and Policy of United States

This circuit has held that where property confiscated by another sovereign state is located within the United States at the time of the attempted

confiscation, the Court will give effect to the acts of the state only if they are consistent with the policy and law of the United States. See Republic of Iraq, supra at 51.

The public policy of the United States as embodied in the constitution and enunciated in caselaw clearly condemns governmental taking of property without compensation. Id. The Bangladeshi claimants do not dispute that there was no compensation given for the expropriation of the assets of the Pakistani claimants. They claim, however, that the confiscation was that of the properties of enemies of the state and as such, is consistent with American policy which does not prohibit confiscation without compensation of property of an enemy. See United States v. Chemical Foundation, 272 U.S. 1, 11 (1926).

This argument was addressed by the Circuit Court in United Banks, supra in which the court stated:

> "It would hardly be 'consistent' with American public policy to create a special exception for extraterritorial seizures committed in wartime. Aside from the antagonistic effect which such an exception would inevitably have on our foreign relations with previously friendly nations, this Court has already recognized that citizens of friendly sovereigns have a legitimate expectation that their property interests in the United States will receive the benefit of any protection our law affords . . ." at 5804.

Accordingly, the Court finds that the act of state doctrine does not prevent this Court from reviewing the acts complained of in this action for their consistency

with American law and policy, and further that upon such review, this Court declares said acts to have been inconsistent with the said law and policy.

Rule 56 F.R.Civ.P. provides for summary judgment upon a showing by the moving party that there are no genuine issues as to any material fact and as a matter of law the movant is entitled to judgment. The Bangladeshi claimants contend that summary disposition in this action would be inappropriate since points of foreign law raised in its memorandum are subject to further development as provided by Rule 44.1 F.R.Civ.P. As is made clear in the Court's opinion, such development is unnecessary.

The motion for summary judgment is hereby granted. The order of suspense is vacated. The movant is directed to submit an appropriate order of judgment on five days' notice.

SO ORDERED.

Dated: New York, New York
April 15, 1977

LAWRENCE W. PIERCE
U. S. D. J.

FOOTNOTES

1. The Pakistani claimant is the Muslim Bank, a multi-branch banking company with head office in Karachi, Pakistan. See Parties' Stipulation ¶1.

2. The Bangladeshi claimants are: the Rupali Bank and the Sonali Bank, banking companies created by Bangladesh Order, 1972 to succeed to the expropriated branches of Muslim Bank and the National Bank of Pakistan; Pubali Bank, another Bangladesh banking company and Admajee Jute Mills, Ltd., successor by nationalization to business in East Pakistan of Adamjee Pakistan. See Stipulation ¶2 and ¶3.

3. The Bangladeshi claimants also argue that the situs of the Golodetz debt was in Bangladesh based on:

   a. The presence in Bangladesh of the seller of the jute and the origination of the jute from Bangladesh.

   b. The location in Bangladesh of the original loan to Adamjee Pakistan for which the jute and the proceeds from the purchaser served as security.

   c. The arguable basis for the exercise of judicial jurisdiction by Bangladesh over the purchaser for the purpose of determining the claims of the Bangladesh claimants for the purchase price.

   These contentions were presented by Bangladeshi claimants in the United Banks case, cited supra. The Second Circuit found these contentions to be insufficient to place the debts in Bangladesh. That decision is controlling here. Slip Op. at 5795-803.

4. The Court notes that an altogether different result might obtain were the parties before the Court two private individuals who, in reliance upon acts of other private individuals, were seeking an adjudication of property rights. In such a case, a court may, in applying traditional principles of property law, find documentary evidence of title in and of itself to be sufficient to determine the rights of the parties in certain property.

FOOTNOTES (Continued)

4. (cont.) Involved here, however, are the acts of a sovereign state. In such a case, title for the purposes of applying the act of state doctrine is evidenced by possession of the property in the foreign state at the time of the expropriation, no matter what form that title may take subsequently. Absent this physical possession to "perfect" title, the mere possession of bills of lading as evidence of title, is not sufficient to invoke the protection of the act of state doctrine.

ORDER AND JUDGMENT FILED MAY 11, 1977

U. S. DISTRICT COURT
FILED
MAY 11 1977
S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

THE MUSLIM COMMERCIAL BANK LIMITED, :

Plaintiff, :

-against- :

M. GOLODETZ & COMPANY, :
WATERMAN STEAMSHIP CORPORATION
and JOHN DOE CORPORATION, :

Defendants. : 72 Civ. 5309 (LWP)

- x

PUBALI BANK, RUPALI BANK, SONALI :
BANK and ADAMJEE JUTE MILLS, LTD., :

Plaintiffs, :

-against- :

M. GOLODETZ & COMPANY and :
WATERMAN STEAMSHIP CORPORATION, :

Defendants. :

- x

ORDER AND JUDGMENT

77,615

These consolidated actions having come on to be heard on motion of The Muslim Commercial Bank Limited, defendant in 72 Civ. 5309, for vacation of the order of suspense entered in these actions on June 30, 1976, and for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and the Court having considered the pleadings in the action, the stipulation of facts of the parties, dated March 25, 1975, and the affidavit of John H. Hall, dated October 29, 1976, in support of the motion and having found that there is no genuine issue of material fact

Order and Judgment filed May 11, 1977

to be submitted to the trial court, and having concluded that The Muslim Commercial Bank Limited is entitled to judgment as a matter of law, it is hereby

ORDERED, that the order of suspense entered June 30, 1976, in these actions is hereby vacated, and it is further

ORDERED, that The Muslim Commercial Bank Limited's motion for summary judgment is in all respects granted, and it is further

ORDERED AND ADJUDGED that The Muslim Commercial Bank Limited recover the sum of $521,568.00, together with interest accrued on such funds while in the hands of M. Golodetz & Company, defendant in both these consolidated actions, and paid over to Citibank, N.A., as escrow agent, in accordance with the Order and Stipulation of this Court entered March 13, 1975, and with interest accrued on the funds while on deposit with Citibank, N.A., under the escrow agreement described in said Order and Stipulation.

Dated: New York, New York
May 4, 1977

W. Conner
United States District Judge

JUDGMENT ENTERED - 5/11/77
Raymond F. Burghardt
CLERK

Due and timely service of Two copies
of the within APPENDIX is hereby
admitted this 1st day of JULY 1977

Karen Tulen 7/1/77
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Attorneys for APPELLEE